



TOWN OF PORT HEDLAND

ORDINARY COUNCIL MEETING MINUTES

WEDNESDAY 27 JULY 2016 AT 5:30PM

**COUNCIL CHAMBERS, MCGREGOR STREET,
PORT HEDLAND**

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**“A nationally significant, friendly city that people are proud
to call home”**

*Chris Linnell
Acting Chief Executive Officer*

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Item 1 Opening of Meeting

The Mayor declared the meeting open at 5:38pm.

Item 2 Acknowledgement of Traditional Owners

The Mayor acknowledged the traditional owners, the Kariyarra people.

Item 3 Recording of Attendance

3.1 Attendance

Mayor Kelly Howlett
 Councillor Camilo Blanco
 Councillor Jan Gillingham
 Councillor David Hooper
 Councillor Julie Arif
 Councillor Troy Melville (Left at 7:47pm)
 Councillor Louise Newbery
 Councillor Richard Whitwell
 Councillor Lincoln Tavo

Officers

Chris Linnell	Acting Chief Executive Officer
Brendan Smith	Director Works and Services
Dale Stewart	Acting Director Corporate Services
Adam Majid	Acting Director Community and Development Services
Tammy Wombwell	Governance Administration Officer/Minute Taker

Public	10
ToPH Officers	9
Media	1

3.2 Apologies

Nil

3.3 Approved Leave of Absence

Nil

3.4 Disclosure of Interests

Name	Item no.	Interest	Nature
Cr Arif	12.2.7 Interim Audit and Financial Management Review	Impartiality	Social Member of Port Hedland Yacht Club
Cr Arif	12.2.10 Schedule of Fees and Charges	Impartiality	Social Member of Port Hedland Yacht Club

Cr Melville	12.3.2 Request for Tender - Electronic Scoreboards	Financial Impartiality	BHP Employee Coach for the South Hedland Football Club
Cr Gillingham	12.2.1 Making of the Town of Port Hedland Animals, Environment and Nuisances Local Law	Impartiality	Councillor owns poultry
Cr Gillingham	12.2.7 Interim Audit and Financial Management Review	Impartiality	Social Member of Port Hedland Yacht Club
Cr Gillingham	12.2.10 Schedule of Fees and Charges	Impartiality	Social Member of Port Hedland Yacht Club
Mayor Howlett	12.2.1 Making of the Town of Port Hedland Animals, Environment and Nuisances Local Law	Impartiality	Mayor owns poultry
Mayor Howlett	12.2.3 South Hedland Bowling and Tennis Club	Impartiality	Financial Member of SHBTC, Volunteer Boodarie Bowls Organising Group
Mayor Howlett	12.2.10 Schedule of Fees and Charges	Impartiality	Volunteer Patron of Port Hedland Netball Association
Cr Blanco	12.2.7 Interim Audit and Financial Management Review	Impartiality	Commodore of the Port Hedland Yacht Club
Cr Blanco	12.2.10 Schedule of Fees and Charges	Impartiality	Commodore of the Port Hedland Yacht Club
Cr Whitwell	12.2.7 Interim Audit and Financial Management Review	Impartiality	Member of Port Hedland Yacht Club
Cr Whitwell	12.2.10 Schedule of Fees and Charges	Impartiality	Member of Port Hedland Yacht Club

Item 4 Response to Previous Questions

4.1 Response to Public Questions taken on notice at the Ordinary Council Meeting held on Wednesday 22 June 2016

4.1.1 Mr George Daccache

How much interest did the Town lose by voting against the recommendation to invest the Port Hedland International Airport Lease Funds in March 2016, and then accepting the recommendation in May 2016?

The Airport Proceeds funds, net of the commission, totalling \$162,347,000.90, were invested for 60 days with the WATC at an interest rate of 2.18% pursuant to the intent of the Council resolution of 25 August 2015. This derived \$581,780 in interest earnings.

In attempting to answer the question submitted, staff have attempted to hypothesis the answer on the following assumptions:

- assumed interest rates the Council may have been offered for a similar period from the 4 Banks based on terms offered at that time for similar periods (assumed to be 2.91% based on 31/3/16 rates);
- investing the proceeds in compliance with the Councils current investment policy with a maximum holding in any one entity of 35%;

- assuming the same term (60 days); and then
- subtracting the interest actually earned from the hypothesized amount of earnings (\$581,780 - \$776,596).

The hypothetical answer, based on the above assumptions, is therefore calculated at \$194,816.

4.1.2 Mr Ron Attwood

At the Town of Port Hedland Ordinary Council Meeting held on 25 May 2016, Mr Attwood asked the following question:

"Now that the Airport lease is completed, can the community be provided with a breakdown of all the costs incurred in this transaction and the net amount paid to the Town of Port Hedland?"

The following response was given by the Chief Executive Officer:

"The Chief Executive Officer advised that the net amount for the lease payment is provided in the Town's monthly financial statements item, to the value of approximately \$162 million, minus costs. There were costs incurred outside of the transaction amount, including legal costs which were budgeted for in the 2014/15 and 2015/16 budgets. Chief Executive Officer advised that the question would be taken on notice regarding the other costs associated with the transaction."

At the Town of Port Hedland Ordinary Council Meeting held on 22 June 2016, Mr Attwood asked the following question:

"The second question I asked last month was regarding the Port Hedland International Airport Lease Funds, I asked for a breakdown of total costs, not just a total cost. When will the breakdown be provided?"

The following response was given by the Chief Executive Officer:

"The Chief Executive Officer advised that the figures that were provided were the costs of the transaction that was undertaken. Those figures have all been recorded in previous public agenda items, and are there for public consumption. The other costs that would have been incurred, would have been legal costs and transition costs which were contained within the Town's budget. These costs were budgeted for by Council and were expended accordingly. The Town provided the figures that were applicable to the formal transaction at the closing of the transaction."

The following question from Mr Attwood was taken on notice at the Town of Port Hedland Ordinary Council Meeting held on 22 June 2016:

Can a breakdown of the costs for the Port Hedland International Airport Lease be provided?

The following breakdown of costs relates, noting that what has not been costed is the indirect administrative costs associated with managing the project.

COSTS RELATING TO THE AIRPORT LEASE AND TRANSITION			
	TOTAL	2014/15	2015/16
	\$	\$	\$
TAG fees	4,500,000		4,500,000
Legal fees	418,797	296,227	122,570
Surveyor cost	5,916		5,916
Accounting Treatment	12,700	2,800	9,900
Direct Staff costs	41,134		41,134
Total	4,978,547	299,027	4,679,520

4.2 Response to Elected Member Questions taken on notice at the Ordinary Council Meeting held on Wednesday 22 June 2016

Nil

4.3 Response to Public Questions taken on notice at the Special Council Meetings held on Wednesday 22 June 2016, Wednesday 29 June 2016 and Monday 11 July 2016

Nil

4.4 Response to Elected Member Questions taken on notice at the Special Council Meetings held on Wednesday 22 June 2016, Wednesday 29 June 2016 and Monday 11 July 2016

Nil

Item 5 Applications for Leave of Absence

CM201617/010 COUNCIL DECISION

MOVED: CR HOOPER

SECONDED: CR MELVILLE

That Council approve the following applications for leave of absence:

- Councillor Gillingham 26 August to 29 August 2016; and
- Councillor Arif 13 August to 13 September 2016.

CARRIED 9/0

Item 6 Attendance by Telephone/Instantaneous Communications

Nil

Item 7 Public Time

Important note:

'This meeting is being recorded on audio tape as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation please indicate this at the meeting. The public is reminded that in accordance with Section 6.16 of the Town of Port Hedland Local Law on Standing Orders nobody shall use any visual or vocal electronic device or instrument to record the proceedings of any meeting unless that person has been given permission by the presiding member to do so. Members of the public are also reminded that in accordance with section 6.17(4) of the Town of Port Hedland Local Law on Standing Orders mobile telephones must be switched off and not used during the meeting.'

The Mayor opened Public Question Time at 5:44pm.

7.1 Public Question Time**7.1.1 Mr John Peters**

Did the Town of Port Hedland have an agreement in place with Macro Realty, for the sponsorship of the North West Festival?

The Mayor advised in the affirmative.

Is the agreement with Macro Realty a Public Document?

The Acting Chief Executive Officer advised that the question would be taken on notice.

When was the agreement with Macro Realty signed by the Town of Port Hedland?

The Acting Chief Executive Officer advised that the question would be taken on notice.

The Mayor closed Public Question Time at 5:47pm.

The Mayor opened Public Statement Time at 5:47pm.

7.2 Public Statement Time**7.2.1 Ms Jan Regan**

The Mayor received a statement via email dated 27 July 2016 from Ms Jan Regan, and read it aloud as follows:

"I would like to give some positive feedback as all too often we complain about things and don't give credit where credit is due.

On two separate occasions over the last 24 hours, I have had dealings with two members of your staff within the Town of Port Hedland arena through my job at the Water Corporation.

Unfortunately I don't know the names of those concerned, however they came to our Depot and had to use our security gate speakers. The tone they used and the politeness was a credit to both of them and something I am not used to as more often than not, people can be quite rude when they have to speak into a speaker to gain access into our premises. Your two staff were a very welcome exception to the rule, and deserve credit for being polite human beings.

I thought I would mention this to you as I for one like to know when I am doing something right".

The Mayor closed Public Statement Time at 5:48pm.

7.3 Petitions/Deputations/Presentations/Submissions

7.3.1 Presentation of Best of Hedland Awards 2016

The Mayor presented the following certificates to the Acting Chief Executive Officer:

- | | | | |
|---|----------|--------------------------|------------------------------|
| • | Finalist | Best Workplace | Town of Port Hedland |
| • | Winner | Best Local Event | North West Festival |
| • | Winner | Best Entertainment Venue | Mall Dann Theatre and Cinema |

7.3.2 Western Australian Police

Port Hedland OIC, Jayd Morawski, South Hedland OIC, Dean Snashall, and Inspector, Ricky Chadwick, gave a presentation on the statistics, community concerns and the improvement opportunities for the Port and South Hedland region.

Item 8 Questions from Members without Notice

8.1 Councillor Blanco

At the last Ordinary Council Meeting, Mr Attwood asked a question about the legal fees for the Port Hedland International Airport lease. The response was that the 2015/16 legal fees were \$122,000. My understanding was that it was close to \$1.2 million. Can I get some clarification?

The Acting Chief Executive Officer advised that the question would be taken on notice.

I have asked for copies of the agreement between Macro Realty and the Town of Port Hedland for the North West Festival sponsorship, and have still not received it. Can I get a copy?

The Acting Chief Executive Officer advised that the agreement would be sent to Elected Members on Thursday 28 July 2016.

8.2 Councillor Gillingham

In regards to the mosaics that were displayed at the entry to the Port Hedland International Airport, as the wall at the entry of the Airport has been rebuilt, will the mosaics be put back?

The Acting Chief Executive Officer advised that the question would be taken on notice.

In regards to late item 15.1 'Port Hedland International Airport Electrical Upgrade Payment', are the extra costs associated with the Port Hedland International Airport lease?

The Mayor advised that the item precedes the Airport lease, and has been ongoing since 2013.

Item 9 Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting

The following Elected Members declared that they had given due consideration to all matters contained in the agenda:

Mayor Howlett
Councillor Blanco
Councillor Gillingham
Councillor Hooper
Councillor Arif
Councillor Melville
Councillor Newbery
Councillor Whitwell
Councillor Tavo

Councillor Gillingham advised that she has not read some attachments.

Councillors Gillingham, Melville and Newbery advised that they had not read late item 15.1 'Port Hedland International Airport Electrical Upgrade Payment'.

Item 10 Confirmation of Minutes of Previous Meetings

10.1 Confirmation of Minutes of the Ordinary and Special Council Meetings held in June 2016**CM201617/011 RECOMMENDATION / COUNCIL DECISION****MOVED: CR ARIF****SECONDED: CR HOOPER**

That Council confirm that the following minutes are a true and correct record:

- 1. Minutes of the Ordinary Council Meeting held on Wednesday 22 June 2016.**
- 2. Minutes of the Special Council Meeting with respect to 'A Matter Affecting an Employee', held on Wednesday 22 June 2016.**
- 3. Minutes of the Special Council Meeting with respect to the 'Rating Strategy 2016/17', held on Wednesday 29 June 2016.**

4. Minutes of the Special Council Meeting with respect to 'Appointment of Acting Chief Executive Officer' held on Wednesday 29 June 2016.
5. Minutes of the Special Council Meeting with respect to 'South Hedland Town Centre Road Modifications', 'Chief Executive Officer Recruitment Process' and 'Confidential Matter – Legal Advice', held on Monday 11 July 2016.

CARRIED 9/0

Item 11 Announcements by Presiding Member without Discussion

The Mayor Activity Report for the June/July 2016 period is as follows:

June 2016

Thursday, 9th June

- Meeting With BHPBIO Chris Cottier
- Meeting With Water Corporation (Rino Trollo and David Hawkins)
- Photo with Mother's Day Classic Highest Fundraising Winner 2016
- Catch Up Re Port Hedland 120th Birthday Working Group Progress to Date

Monday, 13th June

- Weekly CEO and Mayor Catch Up Meeting
- Briefing Port Hedland Items – PRC & Regional Road Group Meeting Agenda
- Photo Opportunity Re Port Hedland 120th Birthday
- Meeting Department Of Housing Pilbara Regional Manager Sharan Van De Sluis
- Telephone Meeting Department Education Regional Director – Pilbara (Neil Darby)
- Meeting South Hedland Primary School Council Meeting
- Attended Presentation To Council From New Energy
- Meet & Greet Labor Candidate For Durack Carol Martin

Tuesday, 14th June

- Weekly Spirit Radio (1026am) Mayor Chat
- Attended TOPH & PHCCI Monthly Catch Up
- Meeting With Minister Ashyton
- Facilitated Forum With Accommodation Services (Hotels and TWAs)
- Weekly TOPH & NWT Media Meeting

Wednesday, 15th June

- Telephone Annual Survey Pilbara Development Commission (PDC)

Thursday, 16th June

- Attended Pilbara Regional Council (PRC) Meeting [Newman]
- Chair Pilbara Regional Road Group Meeting [Newman]

Monday, 20th June

- Weekly CEO and Mayor Catch Up Meeting
- Interview With Mary Phelan (Irish Farmers Journal)

- Attended Meet & Greet With BHPBIO Senior Manager Bindi Gove
- Meeting With Hon Brendan Grylla MLA
- Meet & Greet Nationals Candidate For Durack Lisa Cole
- Meeting & Photo With Melissa Price (Member for Durack)
- Meeting With LandCorp Board
- Attended New Youth Involvement Council (YIC) Headquarters Opening
- Attended Meeting Re 2016 Boodarie Bowls Carnival At South Hedland Bowls & Tennis Club

Tuesday, 21st June

- Meeting With Principal (Daryl Mansfield) South Hedland Primary School
- Weekly Spirit Radio (1026am) Mayor Chat
- Photo Re Colin Matheson Oval Playground
- Meeting With Family Day Care – Danielle Chamberlain
- Meeting With Department Aboriginal Affairs (George Pitt)
- Weekly TOPH & NWT Media Meeting
- Meeting With Andrew Neil Re South Hedland CBD & Taxi Rank

Wednesday, 22nd June

- Attended PHCCI Business Breakfast Series Event
- Interview With Patrick Zoll (Oceania Correspondent and Commodities Reporter NZZ Switzerland)
- Attended Confidential Budget Workshop
- Chair OCM June
- Chair Special Council Meeting

Thursday, 23rd June

- Attended Depot Staff Pre-Start Meeting: Council Meeting Outcomes
- Attended All Staff Meeting: Council Meeting Outcomes
- Meeting With GE & Roy Hill (Jeanette Hasleby and Celina Watt)
- Attended Port Hedland's 120th Birthday Community Working Group Meeting

Friday, 24th June

- Presented The Interschool Primary Athletics Carnival Shield To Port Hedland Primary School
- Participated Via Telephone Link Up – WALGA Selection Committee Meeting

Monday, 27th June

- Speech at South Hedland Primary School for Opening School's NAIDOC Week
- Interview with Hamish – Pilbara after the Boom
- Facilitated Redbank Bridge Stakeholders Meeting
- Meeting With Local Resident Stanley Maurirere Re Potential Franchise Opportunities
- Attended Meeting with South Hedland Bowls & Tennis Club Committee
- Officiated Citizenship Ceremony Gabaldon Family

Tuesday, 28th June

- Weekly Spirit Radio (1026am) Mayor Chat
- Meeting A/Commander Paul Coombes
- Hosted Tidy Town's/Sustainable Communities Judges Visit
- Hosted WA Clean Beaches Challenge Judges Visit

Wednesday, 29th June

- Telephone Meeting Re NW Regional Judo Championships
- Chair SCM – Rates & Rates Strategy
- Chair SCM – Appointment of the Acting Chief Executive Officer

Thursday, 30th June

- Attended Webinar Training with Rose Nowers Early Learning Centre Re: Effective Board Meetings & Minutes
- Hedland Women of Influence Luncheon Event
- Attended LEMC Meeting

July 2016

Friday, 1st July

- Meeting WA Police Craig Parkin
- Attended Farewell Pilbara Youth Justice Services – Regional Manager Raymond Wiley

Sunday, 3rd July

- Attended & Participated 2016 Port Hedland NAIDOC Week Opening Event & Presented Awards 2016 Port Hedland NAIDOC Awards

Monday, 4th July

- Weekly A/CEO, Deputy Mayor and Mayor Catch Up Meeting
- Meeting Australian Defence Force Representatives Visit
- Attended Wangka Maya Pilbara Aboriginal Language Centre NAIDOC Week Yarning Event
- Telephone Meeting CEO Pilbara Business Centre Re Northern Australian Tourism Initiative

Tuesday, 5th July

- Weekly Spirit Radio (1026am) Mayor Chat
- Meeting Department Of Housing (Simon Bell) Re Crisis and Public Housing
- Weekly TOPH & NWT Media Meeting
- Training Webinar: Media And Social Media

Wednesday, 6th July

- Meeting Department Of Local Government & Communities (Jenni Law)
- WALGA State Council – Strategic Forum
- WALGA State Council Meeting

Thursday, 7th July

- Meeting With Department Transport DG Reece Waldock
- Signing & Photo New Energy Agreement
- Attended Meeting South Hedland Campus Divestment Meeting
- Meeting With McLeods (Neil Douglas)
- Meeting With Roy Hill (CEO Barry Fitzgerald & Bill Hart)

Friday, 8th July

- Meeting Kira Fong (Pilbara Girl)
- Interview Foxtel Nat Geo Re Pilbara Girl

- Speech At Opening Wirraka Maya Aboriginal Health Services Community NAIDOC Event

The Mayor also advised that the National Census will be held on 9 August 2016, and encouraged everyone present to take part, as it an extremely important event.

Disclaimer

Members of the public are cautioned against taking any action on Council decisions, on items on this evening's Agenda in which they may have an interest, until formal notification in writing by the Town has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.

Item 12 Reports of Officers

12.1 Office of the CEO

12.1.1 Proposed Policies – 2/007 ‘Purchasing’, 2/011 ‘Tender Evaluation’

File No:	04/03/0002
Applicant/ Proponent:	N/A
Subject Land/ Locality:	N/A
Date:	05/07/2016
Author:	Dale Stewart, Acting Director Corporate Services
Authorising Officer:	Chris Linnell, Acting Chief Executive Officer
Disclosure of Interest from Author:	Not Applicable
Authority/Discretion:	☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets. ☒ Legislative – includes adopting local laws, town planning schemes and policies. Review when Council reviews decision made by Officers.

Attachments:

1. Local and State Public Notice
2. Policy 2/007 Purchasing – Draft
3. Policy 2/011 Tender Evaluation – Draft
4. Current Policy 2/007 Procurement
5. Current Policy 2/011 Tender

RECOMMENDATION

That with respect to Strategy 4.1 of the Towns Strategic Community Plan, Strategic and Best Practice Local Government Administration, Council:

1. Adopt the following amended Policies:
 - a. Amended Policy 2/007 ‘Purchasing’
 - b. Amended Policy 2/011 ‘Tender Evaluation’.
2. Note that the existing policies 2/007 ‘Procurement Policy’ and 2/011 ‘Tender Policy’ will be superceded upon adoption of the amended policies.

CM201617/012 COUNCIL DECISION

MOVED: CR BLANCO

SECONDED: CR TAVO

That with respect to Strategy 4.1 of the Towns Strategic Community Plan, Strategic and Best Practice Local Government Administration, Council:

1. **Adopt the following amended Policies:**
 - a. **Amended Policy 2/007 ‘Purchasing’ with the amendment under part 9, reducing the amount from \$250,000 to \$150,000, with respect to purchases from businesses listed on the Aboriginal Business Directory WA, and Disability Organisations;**

b. Amended Policy 2/011 'Tender Evaluation'.

- 2. Note that the existing policies 2/007 'Procurement Policy' and 2/011 'Tender Policy' will be superceded upon adoption of the amended policies.**

CARRIED 9/0

EXECUTIVE SUMMARY

This report recommends that Council adopt the aforementioned Policies in order to meet legislative requirements and to establish a strong governance framework with respect to the purchasing of goods and services.

Policies 2/007 'Purchasing' and 2/011 'Tender Evaluation' were advertised state wide with policy 2/016 'Regional Price Preference' to provide the public with the opportunity to comment on the proposed policies. No submissions were received during this period.

The Audit, Risk and Governance Committee (ARG) decision at the 10 May 2016 meeting was to workshop the policies following the public advertising period. As there were no public submissions and given the ARG Committee endorsed the policies, the Town is presenting the policies to Council for final consideration.

BACKGROUND

At the Ordinary Meeting of 25 May 2016, Council resolved as follows:

"201516/250 RECOMMENDATION/COUNCIL DECISION***MOVED: CR BLANCO******SECONDED: CR HOOPER******That with respect to proposed policies 2/007 'Purchasing', 2/016 'Regional Price Preference' and 2/011 'Tender Evaluation', Council:***

- 1. Endorse the proposed policies for public comment, noting that where a local government prepares a regional price preference policy, it is required to give statewide public notice of the intention to have a regional price preference policy pursuant to Regulation 24E of the Local Government (Functions and General) Regulations 1996.***
- 2. Note that a discussion paper, as included as attachment 4 to this report, has been prepared on the potential application of regional price preference, and this will be made available to inform public consultation.***

CARRIED 9/0"

The Town of Port Hedland is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*.

Changes to the *Local Government (Functions and General) Regulations 1996* have necessitated for changes to be made to the Town's Purchasing Policy. Key changes are as follows:

- Tender threshold increase from \$100,000 to \$150,000;
- Inclusion of supply panel establishment and operational requirements;
- Addition of public tender exemption for Aboriginal Businesses and Disability Enterprises with a contract value of less than \$250,000;
- Addition of supply panels in public tender exemption.

The proposed Purchasing Policy has been modelled upon the template developed by the WA Local Government Association which has been adopted/modified by the majority of WA local governments.

CONSULTATION

The two Policies presented as attachments 2 and 3 were advertised in the North West Telegraph on 1 June 2016 and the West Australian on 28 May 2016.

Public submissions were invited, with lodgement of submissions closing on 27 June 2016. No public submissions were received.

LEGISLATIVE IMPLICATIONS

Section 3.57 of the *Local Government Act 1995* relates to tenders for providing goods and services. Part 4, Division 1 of the *Local Government (Functions and General) Regulations 1996* make further provisions about purchasing policies.

Policies are determined by Council and may be amended or waived according to circumstance. This power is conveyed to Council in section 2.7 (2) (b) of the *Local Government Act 1995*.

POLICY IMPLICATIONS

Policies 2/007 'Purchasing' and 2/011 'Tender Evaluation' are proposed. Council Policies are developed if they will further the achievement of the Town of Port Hedland's strategic goals or contribute to the fulfilment of mandatory obligations. They guide the discretionary part of Councils decision making and form an essential step in the delegation of Council's powers.

The existing 2/007 'Procurement Policy' and 2/011 'Tender Policy' will be superceded if the proposed policies 2/007 'Purchasing' and 2/011 'Tender Evaluation' are adopted by Council.

FINANCIAL IMPLICATIONS

The proposed policies were advertised in the North West Telegraph in the Town's weekly Hedland Highlights page. These advertising expenses were budgeted for.

STRATEGIC IMPLICATIONS

Strategy 4.1 of the Towns Strategic Community Plan, Strategic and Best Practice Local Government Administration applies. The core objectives of the proposed Policies are to establish strong governance principles and thereby mitigate risks for the Town of Port Hedland, whether they be financial, reputational or other.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

Risk	That the Town of Port Hedland fails to recognise, comply or properly manage statutory obligations.	That misconduct occurs involving the procurement and contracting of goods and services.
Risk Likelihood (based on history and with existing controls)	Unlikely (2)	Rare (1)
Risk Impact / Consequence	Minor (2)	Moderate (3)
Risk Rating (Prior to Treatment or Control)	Low (1-4)	Low (1-4)
Principal Risk Theme	Compliance - 3 Moderate - Non-compliance with significant regulatory requirements imposed	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile
Risk Action Plan (Controls or Treatment proposed)	Treat through adoption of Policies	Treat through adoption of Policies

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and risk ratings of 4 and 3 have been determined for these items. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

The adoption of the Purchasing Policy and the Tender Evaluation Policy is required to meet legislative requirements and to establish strong probity controls around the purchasing of goods and services. It is important for Council to adopt these policies.

Hedland Highlights

1 JUNE 2016

TOWN NEWS



PARKS AND RESERVES BOOKINGS

Community members are reminded all Town of Port Hedland parks and recreation reserves must be booked prior to any private use. Bookings can be made for any sport carnivals, fitness classes, birthday parties, community events, weddings, Christmas functions and many more. It is important that the Town receives all information in order to ensure all statutory requirements are met and to make sure your event runs smoothly. If you have an upcoming event or function or would like more information on how to book a park or reserve please contact with the Towns Booking Officer on 9158 9300 or email bookings@porthedland.wa.gov.au



SPINIFEX SPREE STALLHOLDER CALL OUT

Spinifex Spree Carnival, Port Hedland's 'royal show' annual event, returns to Port Hedland Turf Club on Friday 22 and Saturday 23 July 2016. We're calling out to local businesses, community groups, retail and pop-up stores to come on board and have a stall at the event. Application forms can be found on the Town's website, www.porthedland.wa.gov.au or for more information please contact our Events team on 9158 9300 or ec@porthedland.wa.gov.au

UPCOMING EVENTS

COMMUNITY ACTIVITIES

Shedfitness - Community Education Workshop
Wednesday 7 June 9:30am - 11:30am, Port Hedland South, Civic Centre Library

Napsa Sleep in the First Year

Thursday 2 June 9:30am - 11:30am, Port Hedland South, Civic Centre Library

Napsa's Toddler with Toddlers under 3 years

Wednesday 6 July 9:30am - 11:30am, Port Hedland South, Civic Centre Library

West End Markets

Saturday 4 June 9:00am - 5:00pm, Port Hedland South, Civic Centre

Celebrate WA Day

Monday 6 June 10:00am - 2:00pm, Port Hedland South, Civic Centre

YOUTH ACTIVITIES

Lego Club

Thursday 2 June 4:00pm - 5:30pm, Port Hedland South, Civic Centre

Napsa's Toddler Workshop

Thursday 2 June 9:30am - 11:30am, Port Hedland South, Civic Centre

Story Time

Thursday 2 June 12:00pm - 1:00pm, Port Hedland South, Civic Centre

Hedland Toy Library

Monday 4 June 9:00am - 11:00am, Port Hedland South, Civic Centre

Arts @ 2012

Friday 2 June 9:30am - 11:30am, Port Hedland South, Civic Centre

More information visit
www.whatsonhedland.com.au



HOME BUSINESS REGISTRATIONS

Did you know that as per Town Planning Scheme No 5, planning approval is required to run a home-based business? Application forms can be found on our website www.porthedland.wa.gov.au/application-forms-checklists-fees.aspx. All registrations must be renewed each financial year. If you are yet to approve your renewal letter or are an unregistered home business requiring more information please contact the Town's Development and Lands Officer on 9158 9321 or email pl@porthedland.wa.gov.au



MELBOURNE COMEDY FESTIVAL ROADSHOW

Sheri Channa (Singapore), Tommy Little, Nath Vase and Darius Jayasinha are the comic acts included in the line-up of this year's Melbourne International Comedy Festival Roadshow. The roadshow is set to entertain Port Hedland audiences on Saturday 4 June and Sunday 5 June. Doors and in-house bar opens at 6pm each evening and tickets range from \$29 - \$60, available to purchase online at www.melbourne.comedyshow.com and in-person at the venue or from Port Hedland and South Hedland Library. Early bird tickets are available for a limited time offering a \$10 discount per ticket. For a full list of the line-up visit the Matt Dann Theatre & Cinema website.

MATT DANN THEATRE & CINEMA



Captain America: Civil War (Rated M)

Friday 3 June - 7:30pm

Political ebbs and flows in the Avengers' activities causes a rift between former allies Captain America and Iron Man.
Ticket prices: \$19-Adults, \$15-Mat's Movie & Concessions, \$13-Children



2016 Melbourne International Comedy Festival (Live Comedy Show)

Saturday 4 June - 7:30pm

Sunday 5 June - 7:00pm

Melbourne International Comedy Festival is on the road again with a colossal night of comedy. Be prepared for laughs a plenty as we let loose our most loved comedians onto the open road for the Melbourne Comedy Festival Roadshow.
Ticket prices: \$29-50-\$55



Bad Neighbours 2 (Rated MA15+)

Friday 3 June - 7:30pm

After a security move in last door, which is even more debauchier than the first, Mac and Kelly have to ask for help from their former enemy, Teddy.
Ticket prices: \$19-Adults, \$15-Mat's Movie & Concessions, \$13-Children

Book Your Tickets Online at www.mattdann.com

Public Notices

PROPOSAL TO ADOPT A NEW REGIONAL PRICE PREFERENCE POLICY

In accordance with Regulation 24E of the Local Government (Functions and General) Regulations 1996, the Town of Port Hedland proposes to adopt a policy giving regional price preference for the supply of goods and services. This policy will apply to all businesses located within the municipal boundary of the Town of Port Hedland and other businesses located within the other Local Governments of the Pilbara Region with a reciprocal policy.

A copy of the proposed policy as well as a discussion paper may be inspected or obtained from the Town's website www.porthedland.wa.gov.au or obtained from the Civic Centre, McGregor Street, Port Hedland, Monday to Friday, and the Port Hedland and South Hedland Libraries.

Submissions about the proposed policy may be made to Chief Executive Officer, Town of Port Hedland, PO Box 41, PORT HEDLAND WA 6721.

Submissions are to be received by the Town of Port Hedland by 5pm, Monday 27 June 2016.

PROPOSAL TO ADOPT A NEW PURCHASING POLICY AND TENDER EVALUATION POLICY

The Town of Port Hedland intends to adopt a new Purchasing Policy and Tender Evaluation Policy.

Changes to the Local Government (Functions and General) Regulations 1996 have necessitated for changes to be made to the Town's Purchasing Policy.

Key changes to the Regulations are as follows:-

1. Tender threshold increase from \$100,000 to \$160,000.
2. Inclusion of supply panel establishment and operational requirements.
3. Addition of public tender exemption for Aboriginal businesses and Disability Enterprises with a contract value of \$200,000 goods and services supplied by a panel of pre-qualified suppliers.
4. Addition of supply panels in public tender exemption.

As a result, the following changes to policies are proposed:-

- The Procurement Policy has been amended to align with the current Regulations. The Purchasing Policy has been modelled upon the WALGA template which has been adopted/modified by the majority of WA Local Governments.
- A Tender Evaluation Policy has been created to provide improved guidance to Officers as to the processes after the submission of tenders, and to also ensure better practice in the evaluation of tenders.

A copy of the proposed Policies may be inspected or obtained from the Town's website www.porthedland.wa.gov.au or obtained from the Civic Centre, McGregor Street, Port Hedland, Monday to Friday, and the Port Hedland and South Hedland Libraries.

Submissions about the proposed Policies may be made to Chief Executive Officer, Town of Port Hedland, PO Box 41, PORT HEDLAND WA 6721.

TOWN OF PORT HEDLAND PROPOSED ANIMALS, ENVIRONMENT AND NUISANCES LOCAL LAW 2016

The Town of Port Hedland proposes to make a local law relating to Animals, Environment and Nuisances.

The purpose of which is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the district.

The effect being to establish the requirements with which any person keeping animals or undertaking activities that have the potential to impact the environment, or create a nuisance, must comply.

A copy of the proposed local law may be inspected or obtained from the Town's website www.porthedland.wa.gov.au/local-laws.aspx or obtained from the Civic Centre, McGregor Street, Port Hedland, Monday to Friday, and the Port Hedland and South Hedland Libraries.

Submissions regarding the proposed Town of Port Hedland Animals, Environment and Nuisances Local Law 2016 may be made to:

Chief Executive Officer, Town of Port Hedland, PO Box 41, PORT HEDLAND WA 6721.

Submissions are to be received by the Town of Port Hedland by 5pm, Monday 11 July 2016.

Connect with us

www.porthedland.wa.gov.au

facebook.com/townofporthedland

instagram.com/townofporthedland

council@porthedland.wa.gov.au

9158 9300

Civic Centre, McGregor Street
PO Box 41 Port Hedland, WA 6721



ATTACHMENT 2 TO ITEM 12.1.1



2/007 PURCHASING

1. Policy

The Town of Port Hedland (ToPH) is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* (the "Act") and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the "Regulations") Procurement processes and practices to be complied with are defined within this Policy and the ToPH's prescribed procurement procedures.

2. Objectives

The objectives of this Policy are to ensure that all ToPH procurement activities:

- **Value for Money** - demonstrate that best value for money is attained;
- **Regulatory Compliance** - compliant with relevant legislations, including the Act and Regulations;
- **Record Management** - are recorded in compliance with the *State Records Act 2000* and associated ToPH records management practices and procedures;
- **Transparency & Professionalism** - mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- **Sustainable benefits** - ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment; and
- **Integrity and Ethical** - conducted in a consistent and efficient manner across the organisation and that ethical decision making is demonstrated.

3. Reference Documents

Policy 2/011 'Tender Evaluation'
Policy 2/016 'Regional Price Preference'
Code of Conduct
Delegation Register
Statement of Business Ethics

4. Integrity

Purchasing Principles

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:



Policy 2/007 'Purchasing'

- **Accountability** - full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- **Regulatory Compliance** - all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the ToPH's policies and Code of Conduct;
- **Open Competition** - purchasing is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and consistently;
- **Transparency** - all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation. If the Town of Port Hedland is seeking a quote to inform budget processes without a genuine commitment to procure goods and services this must be disclosed to the business providing the quote;
- **Conflict of Interest** - any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- **Professionalism** - any information provided to the ToPH's by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

5. Purchasing Requirements

5.1 Legislative / Regulatory Requirements

The requirements that must be complied with by the ToPH, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures.

5.2 Policy

Purchasing that is \$150,000* or below in total value (excluding GST) must be in accordance with the purchasing requirements under the relevant threshold as defined under section 5.4 of this Purchasing Policy.

Purchasing that exceeds \$150,000* in total value (excluding GST) must be put to public Tender when it is determined that a regulatory Tender exemption, as stated under 5.4 of this Policy, is not deemed to be suitable.

* - or as per Part 4 Div. 1 11A (1) of Local Government (Function & General) Regulations 1996

5.3 Purchasing Value Definition

Determining purchasing value is to be based on the following considerations:

1. Exclusive of Goods and Services Tax (GST);



Policy 2/007 'Purchasing'

2. The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the ToPH will continue to purchase a particular category of goods, services or works and what total value is or could be reasonably expected to be purchased. A best practice suggestion is that if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply;
3. Must incorporate any variation to the scope of the purchase and be limited to a 5% tolerance of the original purchasing value.

Purchasing from Existing Contracts

Where the ToPH has an existing contract in place, it must ensure that goods and services required are purchased under these contracts to the extent that the scope of the contract allows.

Purchasing Thresholds

The table below prescribes the purchasing process that the ToPH must follow, based on the purchase value:

Purchase Value Threshold	Purchasing Requirement
Up to \$5,000	Obtain at least one (1) oral or written quotation from a suitable supplier, either from: • an existing panel of pre-qualified suppliers administered by the ToPH; or • Standing Offer Arrangement; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or • From the open market.
Over \$5,000 and up to \$15,000	The buyer of goods and/or services shall obtain at least two (2) written quotations from suppliers following a brief outlining the specified requirement, either from: • an existing panel of pre-qualified suppliers administered by the ToPH; or • Standing Offer Arrangement; or





Policy 2/007 'Purchasing'

	- a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or - From the open market. These two written quotes, and any ancillary supporting documentation shall be electronically attached to an authorised purchase request to the Purchasing office for raising of an official purchase order
Over \$15,000 and up to \$150,000*	The buyer of goods and/or services shall develop a "Request for Quotation" or an "Expression of Interest" (depending upon the procurement strategy) in order to obtain either at least three (3) written quotes or expression of interest submissions. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy. Quotations within this threshold may be obtained from: - an existing panel of pre-qualified suppliers administered by the ToPH; or - Standing Offer Arrangement; or - a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or - From the open market. Requests for quotation from a pre-qualified panel of suppliers (whether administered by the ToPH through the WALGA preferred supply program or State Government CUA) are not required to be invited using a Request for Quotation form, however at least three written quotes are still required to be obtained.
Over \$150,000* or as per Part 4 11A of Local Government (Function & General) Regs 1996	Where the purchasing requirement is not suitable to be met through a panel of pre-qualified suppliers, or any other tender-exempt arrangement as listed under section 5.4 of this Policy, conduct a public "Request for Tender" process in accordance with Part 4 of the <i>Local Government (Functions and General) Regulations 1996</i>, this policy, and all other relevant ToPH's policies and procedures. In the case of tender exemption conditions, at least three (3) written quotations must be received by formal invitation under a "Request for Quotation".



Policy 2/007 'Purchasing'

	The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy, and as per the Tender Evaluation Policy.
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* - or as per Part 4 Div. 1 11A (1) of Local Government (Function & General) Regulations 1996

5.4 Tendering Exemptions

An exemption to publicly invite tenders may apply in the following instances:

- The purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement.
- the purchase is from a Regional Local Government or another Local Government;
- the purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents value for money;
- the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- the purchase is from a pre-qualified supplier under a Panel established by the ToPH;
- the purchase is to be obtained from expenditure authorised in an emergency as per section 5.8 of this policy; or
- any other exclusion under regulation 11 of the Local Government (Functions and General) Regulations 1996 apply.

5.5 Inviting Tenders Under the Tender Threshold

Where considered appropriate and beneficial, the ToPH may consider publicly advertising Tenders in lieu of undertaking a Request for Quotation for purchases under the tender threshold. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements, and whether the purchasing requirement can be met through the WALGA Preferred Supply Program or State Government CUA.

If a decision is made to undertake a public Tender for contracts expected to be \$150,000* or less in value, the Tendering Process procedures must be followed in full, as per the regulations.

* - or as per Part 4 Div. 1 11A (1) of Local Government (Function & General) Regulations 1996

5.6 Sole Source of Supply

Where the purchasing requirement is over the value of \$5,000 (excl GST) and of a unique nature that can only be supplied from one supplier, the purchase is



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permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the ToPH is satisfied and can evidence that there is only one source of supply for those goods, services or works.

The ToPH must use all best endeavours to determine if the sole source of supply is genuine. Where-ever possible an expression of interest (EOI) process shall be undertaken to ascertain whether there is only one source of supply.

If, in the event, consultants or a group of consultants have been utilised to provide a range of services initially on a **complex** project, it may be deemed that it is not be feasible to restart a project under tender circumstances due to the effort and cost associated with gaining the required background knowledge. In this case, the situation may be deemed as tender exempt under a sole supplier situation. Once determined, the justification must be endorsed by the Chief Executive Officer, prior to a contract being entered into.

A sole source of supply purchase does not relate to purchases not planned for, due to time constraints.

5.7 *Splitting of Purchase orders*

The ToPH shall not enter into two or more contracts or create multiple purchase order transactions of a similar nature for the purpose of "splitting" the value of the purchase or contract to take the value of the consideration of the purchase below a particular purchasing threshold, particularly in relation to Tenders and to avoid the need to call a public Tender.

5.8 *Emergency Purchases*

An emergency purchase is defined as an unanticipated and unbudgeted purchase, as per Local Government Act 1995 Section 6.8(1) (c), which is required in response to an emergency situation. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken, however, the funds must be approved by the Mayor prior to purchase.

An emergency purchase does not relate to purchases not planned for, due to time constraints.

6. **Records Management**

Records of all purchasing activity must be retained in compliance with the *State Records Act 2000 (WA)*, the ToPH's Records Keeping plan and associated procurement procedures.

For each procurement activity, such documents may include:



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- The Procurement initiation document such as a procurement business case which justifies the need for a contract to be created (where applicable);
- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the contract;
- Request for Quotation/Tender documentation;
- Copy of public advertisement inviting tenders, or the notice of private invitation (whichever is applicable);
- Copies of quotes/tenders received;
- Evaluation documentation, including individual evaluators note and clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to respondents notifying of the outcome to award a contract;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of contract(s) with supplier(s) formed from the procurement process.

7. Buy Local

As much as practicable, the ToPH must:

- where appropriate, consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses;
- consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- ensure that procurement plans address local business capability and local content;
- explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;
- Provide adequate and consistent information to potential suppliers.

To this extent, a qualitative weighting may be afforded in the evaluation of quotes and tenders where suppliers are located within the municipal boundary of the Town of Port Hedland or a neighbouring municipality located within a 500km radius of the ToPH Civic centre with a reciprocal Regional Pricing Preference to the benefit of ToPH businesses.

A regional price preference may be afforded to locally based businesses for the purposes of assessment. Provisions are detailed within the ToPH's Regional Price Preference Policy.

8. Purchasing From Disability Enterprises



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Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the ToPH is not required to publicly invite tenders if the goods or services are to be supplied from an Australian Disability Enterprise, as registered on www.ade.org.au. This is contingent on the demonstration of value for money.

Where possible, Australian Disability Enterprises are to be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises, as per the Regional Price Preference.

9. Purchasing From Aboriginal Businesses

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the ToPH is not required to publicly invite tenders if the goods or services are to be supplied from a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation on www.abdwa.com.au, where the expected consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

Where possible, Aboriginal businesses are to be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Aboriginal owned businesses, or businesses that demonstrate a high level of aboriginal employment, as per the Regional Price Preference Policy.

10. Panels Of Pre-Qualified Suppliers

10.1 Policy Objectives

In accordance with Regulation 24AC of the *Local Government (Functions and General) Regulations 1996*, a Panel of Pre-qualified Suppliers ("Panel") may be created where most of the following factors apply:

- the ToPH determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and will improve procurement processes; and
- The ToPH has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The ToPH will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.



Policy 2/007 'Purchasing'

10.2 Establishing a Panel

Should the ToPH determine that a Panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 the *Local Government (Functions and General) Regulations 1996*.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Panels may be established for a maximum term of two (2) years.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted. The Evaluation criteria will be set out within ToPH procedures.

Where a Panel is to be established, the ToPH will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the ToPH must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

10.3 Distributing Work Amongst Panel Members

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the ToPH intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 11.4; or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with Clause 11.3(b).

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- a) Each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items



Policy 2/007 'Purchasing'



of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; or

- b) Work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD (5) (f) when establishing the Panel. The ToPH is to invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the ToPH may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds stated in section 5.5 of this Policy.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which is inclusive of options to extend the contract.

10.4 *Purchasing from the Panel*

The invitation to apply to be considered to join a panel of pre-qualified suppliers must state whether quotations are either to be invited to every member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must all be captured on the ToPH's records system. A separate file is to be maintained for each quotation process made under each Panel that captures all communications between the ToPH and Panel members.

10.5 *Recordkeeping*

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept.

For the creation of a Panel, this includes:

- The Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;
- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- Request for Applications documentation;
- Copy of public advertisement inviting applications;
- Copies of applications received;
- Evaluation documentation, including clarifications sought;





Policy 2/007 'Purchasing'

- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of framework agreements entered into with pre-qualified suppliers.

The ToPH is also to retain itemised records of all requests for quotation, including quotations received from pre-qualified suppliers and contracts awarded to Panel members. A unique reference number shall be applied to all records relating to each quotation process, which is to also be quoted on each purchase order issued under the Contract.

Information with regards to the Panel offerings, including details of suppliers appointed to the Panel, must be kept up to date, consistent and made available for access by all officers and employees of the ToPH.

Council adoption date and resolution no.	OCM 29 January 2014 (201314/222)
Date of adoption of amendment and resolution number do not delete the previous dates	Amended at the 29 January 2014 Council Meeting (201314/222) Amended at the 8 June 2011 Council Meeting Amended at the 27 May 2009 Council Meeting
Relevant legislation	Local Government Act 1995 Local Government (Financial Management) Regulations 1996 Local Government (Functions and General Regulations) 1996
Related Policy	2/011 Tender Evaluation
Delegated authority	Yes
Business unit	N/A
Directorate	Office of the CEO
Review frequency	As Required

ATTACHMENT 3 TO ITEM 12.1.1

**2/011 TENDER EVALUATION****1. Policy**

Tender evaluation will apply to all tenders and requests for proposals invited by the Town of Port Hedland (ToPH) for the supply of goods and services and construction (building) services unless Council resolves that this policy not apply to a particular procurement episode.

2. Objective

To enable guidance to the Chief Executive Officer (CEO) in accordance with any available delegation to approve the use of suitable tender evaluation criteria prior to inviting of tender for discrete and identifiable budget items.

3. Principles

This policy is applicable based upon the following being addressed:-

- A delegation is in place to enable the CEO to approve the tender evaluation criteria prior to any invite of tenders;
- A discrete and identifiable budget is in existence for a product, supply & install or service at the time that tenders are invited;
- The value of the tender is greater than \$150,000 or deemed to be suitable for the tendering process;
- Internal controls relevant to tender management are not compromised;
- Acceptance of the tender will be approved by Council unless delegation exists to the CEO, under provisions of the Delegation Register.

4. Reference Documents

Local Government (Functions and General) Regulations 1996
Policy 2/007 'Purchasing'
Policy 2/016 'Regional Pricing Preference'
Delegation and Sub-Delegation register

5. Definitions

Goods: includes tangible, quantifiable material requirements usually capable of being moved or transported that are purchased, rented, leased or hired by the Town.



Services or Provision of Services: means any task, consultancy, work or advice to be performed or provided that is procured by the Town and includes services such as management consultancies, outsourcing, maintenance contract / agreement, cleaning, waste removal, equipment repairs, external auditors, utilities and services acquired by a private sector provider for the Town.

Construction (including works): performing any improvement on or over any areas of land, lake, river or ocean and any services related to that activity in the prescribed area, including the construction of buildings, housing and other public infrastructure as well as related services such as architectural, surveying, facilities management and general maintenance.

Technical:

6. Roles and Responsibilities

The Requesting Officer shall ensure:-

- The appropriate process is followed as determined by existence of any budget allocation;
- Where possible apply the evaluation principles appropriate to the tender being sought, as per this Policy;
- Complete and issue a report to the CEO for awarding the tender or issuing to the Council for tender award approval.

The CEO shall ensure:-

- The policy will be adhered to in accordance with the appropriate delegations, Employee Code of Conduct and authorisations;
- All budgeted project cost provision will be deemed confidential and not released to the public (when the item is disclosed in a publicly available report or detailed in the publicly available Annual Budget);
- A report is provided to Council as to results of tender evaluation process in the next available council meeting via resolution for consideration, unless the CEO has the appropriate delegated authority.

The Elected Members shall ensure in keeping with the ToPH Code of Conduct, that the Elected Members role with respect to tenders, is limited to considering and approving the successful tender where a tender is not approved pursuant to delegated authority. In addition, the ToPH will ensure that all tenders and documentation include reference to "Canvassing of Elected Members" which will automatically disqualify the Tender.



7. Scope of Work

The scope of work must be relevant and sufficient detail provided to give the contracted tenderer a clear understanding of the nature and extent of the works required including timeframes and deliverables to complete the tendered works. Pricing by the tenderer can only be based upon the scope of works described in detail.

All scopes of work shall be estimated to within $\pm 10\%$ of the approved budget (i.e. a Quantity Surveyor Report) prior to the tendering process, to assist and support the effective and efficient tender evaluation process.

All scopes of work and budget estimates are required to be confirmed by the relevant Director &/or CEO prior to the invitation to tender.

8. Tender Evaluation

8.1 The CEO or that officer's delegate (as per the Sub-delegation register) will determine the criteria for tender acceptance prior to tenders being called, and be submitted along with all tender documentation for tender calling.

8.2 Tenders vary greatly in the nature of the activity, scope of work and pricing styles, therefore it is difficult to prescribe one single evaluation model to fit all circumstances.

In all cases, the criteria will be provided within the tender documentation, including the acceptable weighting range.

Goods

Table 1 relates to the suggested approach for the procurement of goods and applies to any goods or products purchased from suppliers:-

Criteria	Acceptable Weighting Range
Price	$\geq 50\%$
Quality	$\geq 10\%$
Capacity to deliver	$\geq 10\%$
Others as deemed appropriate	Up to 30%



This provides for a price weighting to be fixed between 50-80%, whilst still maintaining 20% weighting for quality and capacity to deliver, however, the CEO or that officer's delegate may authorise weightings outside this guide where circumstances warrant.

When determining the criteria, the sum of the weighting must equal 100%.

Supply & Install

Table 2 relates to the suggested approach for the procurement of supply and install tenders, whether it be civil supply & construction, equipment supply and install etc:-

Criteria	Acceptable Weighting Range
Price	≥30%
Relevant Experience	≥10%
Methodology	≥10%
Quality	≥10%
Capacity to deliver	≥10%
Others as deemed appropriate	Up to 30%

This provides for a price weighting to be fixed between 30-60%, whilst still maintaining 40% weighting for experience, methodology, quality and capacity to deliver, however, the CEO or the officer's delegate may authorise weightings outside this guide where circumstances warrant.

When determining the criteria, the sum of the weighting must equal 100%.

Services

Table 3 relates to suggested approach for the procurement of services, whether it be consultancy, service and repair, labour services etc:-

Criteria	Acceptable Weighting Range
Price	≥40%
Relevant Experience	≥10%
Methodology	≥10%
Capacity to deliver	≥10%
Others as deemed appropriate	Up to 30%



This provides for a price weighting to be fixed between 40-70%, whilst still maintaining 30% weighting for experience, methodology, and capacity to deliver, however, the CEO or the officer's delegate may authorise weightings outside this guide where circumstances warrant.

When determining the criteria, the sum of the weighting must equal 100%.

- 8.3 In the advent that the tender is of a technical nature and the technical content has significant importance in project execution, the evaluation shall be undertaken on the technical aspects of the tender in the first instance (without assessment of price). Due to the technical aspects, it may also be a requirement to conduct an independent evaluation via a suitably qualified third party.

Upon the completion of the technical evaluation, and only if there are multiple tenders similarly rated during the technical evaluation shall price be then included in the tender evaluation process.

9. Tender Opening

- 9.1 The CEO or the officer's delegate (as per the Sub-delegation register) is responsible for keeping any tender submitted in safe custody and to ensure that it remains confidential.
- 9.2 Tenders are not to be opened, examined or assessed until the time after tender submission, as per tender documentation and public advertising, after which further tenders will not be accepted.
- 9.3 When tenders are opened:-
- at least two employees of the ToPH must be present
 - members of the public are entitled to be present
 - the names of the tenderers are to be immediately recorded in the tender register.

10. Reporting

The Reporting officer will complete the "Agenda Item Template" for reporting to the next Ordinary Council meeting after the tender is awarded. The CEO will then ensure that the report is furnished at the next Ordinary Council meeting.

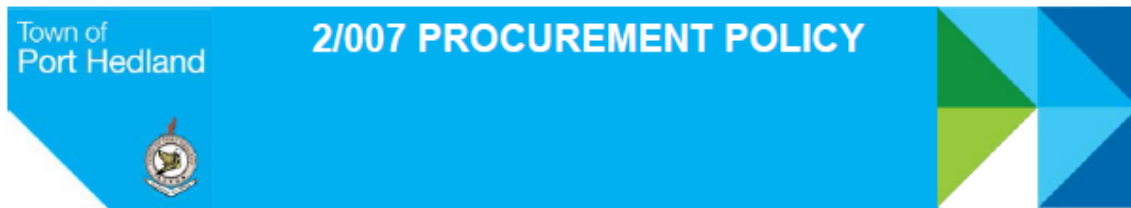


11. Consequences

This Policy represents the formal policy and expected standards of the ToPH. Appropriate approvals need to be obtained prior to any deviation from this policy. Employees and Elected Members have an obligation under the ToPH Code of Conduct to give full effect to the lawful policies, decisions and practices of the Town.

Adoption Date	OCM 8 June 2011
Date of adoption of amendment and Resolution Number <i>Do not delete previous dates</i>	OCM 28 August 2013 (201213/067)
Relevant Legislation	Local Government Act 1995 Local Government (Functions and General) Regulations (1996)
Related Policy	Town of Port Hedland Procurement Policy 2/007
Delegated Authority	
Business Unit	
Directorate	Corporate Services
Review Frequency	Annually

ATTACHMENT 4 TO ITEM 12.1.1

**2/007 PROCUREMENT POLICY****OBJECTIVE**

This policy aims to ensure that Town of Port Hedland's procurement of goods and services is legal, ethical, and to the Town's best advantage. The Town's purchasing objectives are:

- Open and fair competition;
- Value for money;
- Enhancement of the capabilities of local business and industry;
- Environmental protection; and
- Ethical behaviour and fair dealing.

RELEVANT LEGISLATION

- Local Government Act 1995
- Local Government (Financial Management) Regulations 1996
- Local Government (Functions and General) Regulations 1996

RELATED POLICIES

- Tender Policy
- Regional Price Preference Policy
- Code of Conduct

POLICY

In entering into contracts for the carrying out of work, or the supply of goods and services, Council Officers will have regard to Town of Port Hedland's purchasing objectives as set out above.

Every effort should be made to ensure businesses operating within the Town of Port Hedland local government area are given an opportunity to quote.

The general objectives of this policy apply to all purchases regardless of whether payment is made via traditional Accounts Payable processes, petty cash or corporate purchase cards.

Those persons or organisations providing goods and services to the Town shall be considered to be agents of the Town and shall be required to comply with the Town's relevant policies.

A breach of the requirements of this policy may result in disciplinary action.

**Delegation**

The Chief Executive Officer (CEO) has delegated authority to incur financial expenditure on behalf to the Town under the following provisions:

- Where expenditure has been provided for in the annual budget; or
- Genuine emergency

The CEO is authorised to enter into contracts on behalf of the Town within the procurement delegation authorised.

Other Town Officers may only incur expenditure on behalf of the Town if:

- The Officer has been granted a procurement delegation by the CEO, and such delegation is recorded in the Sub-Delegations Register; and
- The expenditure has been provided for in the annual budget; or
- In the case of genuine emergency or hardship, where the power to incur expenditure in these circumstances has also been delegated.

No Officer may have a procurement delegation exceeding \$100,000.

Any Officer incurring expenditure may only do so in accordance with any constraints imposed by the Council or the CEO in respect to a procurement delegation.

When party to a trade-in on goods, the delegated level of authority applies to the gross purchase price of the goods, not the purchase value less the trade-in price.

All Officers with an expenditure delegation or involved in the procurement of goods and services will be appropriately trained in the relevant procedures to be followed.

Allocation of Funds

In addition to a delegated authority to incur expenditure, it is essential that funds are made available for a purchase prior to any commitment being entered into. This means that a budget allocation must have been approved by Council in the annual budget or subsequent reviews for the purpose to which the proposed expenditure applies.

For special projects, contribution works, and grant works not specifically detailed in the annual budget, approval to purchase is dependent upon the funds being available. These funds must either be received or committed in writing by the funding body, and accepted by the Town.

For any program of works that exceeds the budget estimate by more than an immaterial amount, initial approval for commencement of works must be given by the CEO and subsequently reported to Council via the Quarterly Budget Review process.



Budget allocations are provided for a purpose. Expenditure contrary to this purpose (such as using a budget in one area to cover another, or using a recurrent budget to fund a capital purchase and vice versa) must be initially approved by the CEO and subsequently reported to Council via the Quarterly Budget Review process.

Purchase Orders

An official Town of Port Hedland Purchase Order is required for all purchases greater than \$1,000. Purchase Orders in the prescribed format must be provided to the preferred supplier prior to the supply of goods or services. Exemptions for the requirement to raise a Purchase Order apply to recurrent payments such as telephone and electricity accounts; subscriptions; credit card purchase; and monthly rentals where it is impractical to raise Purchase Orders prior to receipt of the goods and services, and associated invoice.

Splitting of Purchase Orders

Officers are prohibited from splitting Purchase Orders for the purposes of acquiring goods or services above their delegated procurement authority, or to avoid the necessity to obtain quotes or call for tenders.

Receipt of Goods and Services

When the goods are received or the works and services carried out, a Goods Received declaration shall be completed in the prescribed format.

Promotions and Incentives

The offering or acceptance to Officers of promotional goods, rewards, benefits or any other form of incentive in relation to the procurement of goods and services is strictly prohibited.

Regional Collaboration, Standing Offer and Preferred Supplier Arrangements

The Town is a member of the Pilbara Regional Council (PRC). Town Officers are encouraged to seek opportunities to aggregate purchases within this alliance as well as other local government groups when applicable. Local suppliers should be encouraged to submit a quotation or tender in these circumstances.

The Town may enter into Standing Offer Arrangements (SOA) with suppliers for the supply of particular goods and services at specified rates for a specified time period. Standing Offer Arrangements may only be entered into following public advertising seeking offers.

The Town may access Preferred Supplier Arrangements (PSA) through the WA Local Government Association (WALGA), or its own PSA following public advertising and assessment of submissions.



An SOA or PSA may be established if the supply of goods or services is needed in large volumes or on a frequent basis; and use of an SOA or PSA will obtain better value for money by aggregating demand for the goods or services required.

When utilising PRC, SOA or PSA procurement methods, Officers must ensure that there is provision for the evaluation of the arrangements, including the removal of a supplier from an arrangement because of poor supplier performance.

Quotations and Advertising

Officers will apply the following minimum guidelines for inviting quotations prior to the procurement of any goods or services. In assessing which quotation requirements apply, consideration is to be given to the estimated amount inclusive of GST.

Estimated Value	Requirements
Less than \$2,000	Not applicable
\$2,000 to \$4,999	1 written quote; or Preferred Supplier Arrangement; or Standing Offer Arrangement; or Accessing Government contract pricing
\$5,000 to \$14,999	2 written quotes (excluding sole supplier situations); or Preferred Supplier Arrangement; or Standing Offer Arrangement; or Accessing Government contract pricing
\$15,000 to \$49,000	Public advertising encouraged 3 written quotes (excluding sole supplier situations); or Preferred Supplier Arrangement; or Standing Offer Arrangement; or Accessing Government contract pricing
\$50,000 to \$99,999	Public advertising encouraged ToPH website advertising essential 3 written quotes (excluding sole supplier situations); or Preferred Supplier Arrangement; or Standing Offer Arrangement; or Accessing Government contract pricing
\$100,000 or greater	Tender Policy applies

The relevant Director is to assess the extent of any public advertising required. Where written quotes are submitted as a result of public advertising, all persons and organisations that have provided a quotation must be advised in writing of the outcome.

An exemption from meeting the relevant quotation requirements may only be issued by the CEO.



Evaluation of competing suppliers shall be made with reference to the Town's procurement objectives. At the end of major procurements, the performance of the contractor or supplier should be assessed. This information can be used in the assessment process for the award of future contracts.

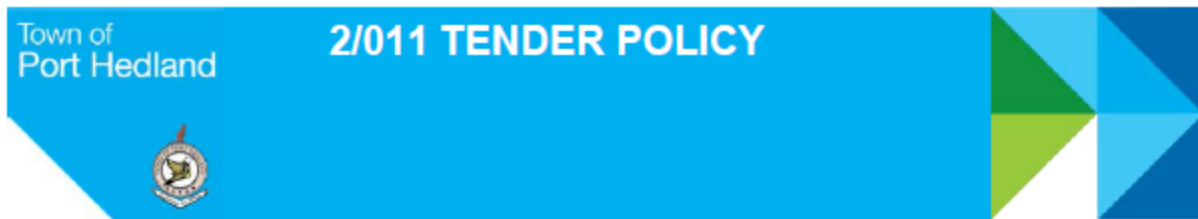
All documentation associated with procurement, including written quotations and supplier evaluations, shall be retained and attached to the relevant payment request. Records are to be retained in accordance with the Town's internal and legislative record keeping requirements.

DEFINITION

Nil

Council Adoption Date and Resolution No.	OCM 29 January 2014 (201314/222)
Date of adoption of amendment and Resolution Number Do not delete previous dates	Amended at the 29 January 2014 Council Meeting (201314/222) <i>Amended at the 8 June 2011 Council Meeting Amended at the 27 May 2009 Council Meeting</i>
Relevant Legislation	<i>Local Government Act 1995 Local Government (Financial Management) Regulations 1996</i>
Delegated Authority	
Directorate	<i>Corporate Services</i>
Review Frequency	<i>Two yearly. Due January 2015.</i>

ATTACHMENT 5 TO ITEM 12.1.1

**2/011 TENDER POLICY**

Directorate CORPORATE SERVICES

Business Unit Organisation Development

Application

This policy will apply where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be, over \$100,000 and a public tender is to be called as per s3.57 of the Local Government Act 1995 and Local Government Functions and General Regulations Part 4 - Tenders for Providing Goods and Services.

Objective

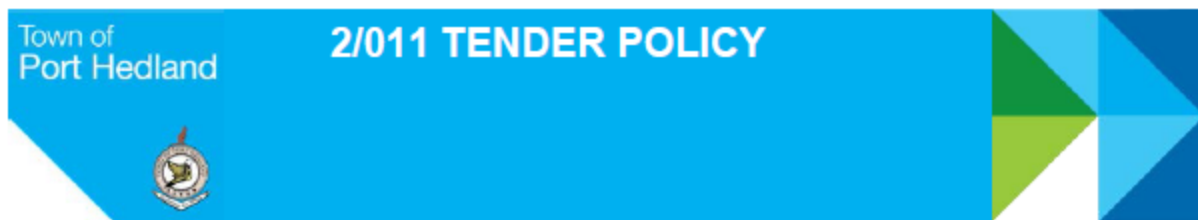
This policy provides a framework which will ensure statutory compliance with all relevant legislation and Town of Port Hedland related policies and encompasses best practice when procuring goods and services through the Tender process. It also references delegations with respect to tenders to the Chief Executive Officer (CEO) in accordance with Section 5.42 and 5.43 (b) of the Local Government Act 1995.

Context

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be, over \$100,000 a public tender will be called as per s3.57 of the Local Government Act 1995 and Local Government Functions and General Regulations Part 4 - Tenders for Providing Goods and Services.

The Chief Executive Officer is delegated to set Selection Criteria for tenders in accordance with Regulation 14(2a) of the Local Government (Functions and General) Regulations 1996. The selection of the criteria must be in accordance with this Policy and the Town of Port Hedland's Procurement Policy (Policy 2/007) and Regional Price Preference Policy 2/016.

The Town of Port Hedland has a Regional Price Preference policy which seeks to maximise the use of competitive local business in the procurement of goods and services, supporting local business and industry and to encourage employment of local people thereby generating economic growth within the Town. Unless determined by



Council, the Town of Port Hedland Regional Price Preference Policy 2/015 will apply to all Tenders called by the Town.

To ensure a best practice approach to purchasing for the Town of Port Hedland the following additional procedural threshold will apply:

Tender Value	Pre Tender Actions	Post Tender Closing Actions	Assessment timeframe	Evaluation Panel
\$100k - \$500k	1. Optional site briefing	In accordance with statutory obligations and ToPH. checklist	2 weeks	Manager and Director
\$500k - \$1m	As above	In accordance with statutory obligations and ToPH checklist.	2 weeks	Manager and Director
\$1m-\$5m	1. As above, and 2. Bill of Quantities * 3. Peer review of design/specification documentation including sign off * 4. Pre tender estimate 5. Business Plan (greater than \$2m) 6. Asset Management Plan	In accordance with statutory obligations and ToPH checklist.	4 weeks	Responsible Manager and at least two Directors



Tender Value	Pre Tender Actions	Post Tender Closing Actions	Assessment timeframe	Evaluation Panel
	(where relevant)			
\$5m-\$10m	1. As above, and 2. Compulsory site briefing 3. Business/Operational Plan 4. Project Manager engaged(optional) 5. Tender Evaluation Plan 6. Asset Management Plan (where relevant)	1. In accordance with statutory obligations and ToPH checklist 2. Interviews with tenderers. 3. Quarterly QS approval of works.	6 weeks	As above
\$10m +	1.As above, and 2.Legal advice on tender documentation prior to distribution 3.Engagement of probity advisor 4.Project Manager engaged	1 .As above, and 2. Legal advice on tender contract prior to execution 3. Probity advisor 4. Monthly QS approval of works	6-8 weeks	As above

* Does not apply to Design and Construct Tenders

**Tender or Quotation Exemption (Use of Preferred Supplier)**

The Town of Port Hedland may waive the requirement to call for public tenders or quotations (regardless of the value of expenditure) and engage, award or contract for goods and purchases with preferred suppliers in the following circumstances:

- In an emergency service as defined by the Local Government Act 1995
- The purchase is from a supplier under a contract of the Western Australian Local Government Association (Preferred Supplier Contract or Business Service), the State or the Commonwealth or any of its agencies (Department of Treasury and Finance- permitted Common Use Arrangements), a Regional Council or another Local Government.¹
- The purchase is from a supplier awarded a Town of Port Hedland Awarded Tender- Period Contract ²
- Any other exclusion as defined in the Local Government (Functions and General) Regulations Part 4- Division 2 Regulation 11.

¹ Prior to the purchase of goods or services, Councillors are notified of the intent to use a preferred supplier.

² Town of Port Hedland Awarded Tenders - Period Contracts are called for on a regular basis to select contractors that may be used during the contract period at the tendered dollar rate.

Furthermore the engagement of any purchasing activity despite having the quotation or tender process waived must be undertaken in line with the officers delegated purchasing authority limit as detailed in all Position Descriptions, ensuring that sufficient funds have been provided for in the Town's annual budget.

(Adopted at the 8 June 2011 Council Meeting. Amended at the 28 August 2013 OCM.)

12.1.2 Proposed Policy – 2/016 ‘Regional Price Preference’

File No:	04/03/0002
Applicant/ Proponent:	N/A
Subject Land/ Locality:	N/A
Date:	06/07/2016
Author:	Dale Stewart, Acting Director Corporate Services
Authorising Officer:	Chris Linnell, Acting Chief Executive Officer
Disclosure of Interest from Author:	Not Applicable
Authority/Discretion:	☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets. ☒ Legislative – includes adopting local laws, town planning schemes and policies. Review when Council reviews decision made by Officers.

Attachments:

1. Local and Statewide Public Notice
2. Policy 2/016 ‘Regional Price Preference’ – Draft
3. Current Policy 2/016 ‘Regional Price Preference’

CM201617/013 RECOMMENDATION/ COUNCIL DECISION**MOVED: CR ARIF****SECONDED: CR BLANCO**

That with respect to Strategy 4.1 of the Towns Strategic Community Plan, Strategic and Best Practice Local Government Administration, Council:

1. **Adopt amended Policy 2/016 ‘Regional Price Preference’.**
2. **Note that the adopted policy will be operational from 8 August 2016 after state-wide notice has been given in accordance with regulation 24F (3)(b) of the Local Government (Functions and General) Regulations 1996.**
3. **Note that the existing Policy 2/016 ‘Regional Price Preference’ will be superseded upon adoption of the amended Policy.**

CARRIED 8/1

For: Mayor Howlett, Cr Blanco, Cr Gillingham, Cr Hooper, Cr Arif, Cr Melville, Cr Newbery, Cr Tavo

Against: Cr Whitwell

EXECUTIVE SUMMARY

This report recommends that Council adopt the presented Regional Price Preference Policy with the objective of maximising the use of competitive local business in the procurement of goods and services, supporting local business and industry and to encourage employment of local people thereby generating economic growth within the Town.

Policy 2/016 'Regional Price Preference' was advertised state wide for four weeks to provide the public with the opportunity to comment on the proposed policy. No submissions were received during this period.

The Audit, Risk and Governance Committee (ARG) decision at the 10 May 2016 meeting was to workshop the policy along with policy 2/007 'Purchasing' and 2/011 'Tender Evaluation' following the public advertising period. As there were no public submissions and given the ARG Committee endorsed the policies, the Town is presenting the policies to Council for final consideration.

BACKGROUND

At the Ordinary Meeting of 25 May 2016, Council resolved as follows:

"201516/250 RECOMMENDATION/COUNCIL DECISION

MOVED: CR BLANCO

SECONDED: CR HOOPER

That with respect to proposed policies 2/007 'Purchasing', 2/016 'Regional Price Preference' and 2/011 'Tender Evaluation', Council:

- 1. Endorse the proposed policies for public comment, noting that where a local government prepares a regional price preference policy, it is required to give statewide public notice of the intention to have a regional price preference policy pursuant to Regulation 24E of the Local Government (Functions and General) Regulations 1996.*
- 2. Note that a discussion paper, as included as attachment 4 to this report, has been prepared on the potential application of regional price preference, and this will be made available to inform public consultation.*

CARRIED 9/0"

The Town of Port Hedland is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*.

The Regional Price Preference Policy has been prepared and advertised pursuant to Part 4A of the *Local Government (Functions and General) Regulations 1996*. The main issues for Council consideration are:

1. Whether a regional price preference is supported; given the presumption is that it will stimulate local purchasing and promote economic growth?
2. What is an appropriate definition of 'regional' for the application of the policy? The Policy currently defines 'Regional' as all businesses located within the municipal boundary of the Town of Port Hedland or within the municipality boundary of one of the below local governments:
 - Shire of Ashburton
 - Shire of Broome
 - Shire of East Pilbara
 - City of Karratha

3. What is an appropriate discount to be permitted for regional price preferences? The Policy provides for the maximum discounts permitted under Regulation 24D of the *Local Government (Functions and General) Regulations 1996*, defined under section 7 of the Policy.

CONSULTATION

Regulation 24E of the *Local Government (Functions and General) Regulations 1996* requires local government to give state-wide public notice of the intention to have a regional price preference policy with a statement inviting submissions commenting on the proposed policy, together with a closing date of not less than 4 weeks for those submissions. The proposed policy was advertised in the West Australian newspaper on 28 May 2016 (see attachment 1) with submissions closing on 27 June 2016 (30 clear days). No submissions have been received.

LEGISLATIVE IMPLICATIONS

Section 3.57 of the *Local Government Act 1995* relates to tenders for providing goods and services.

Part 4A of the *Local Government (Functions and General) Regulations 1996* makes provisions on regional price preference.

Policies are determined by Council and may be amended or waived according to circumstance. This power is conveyed to Council in section 2.7 (2) (b) of the *Local Government Act 1995*.

Once adopted the policy will be advertised state-wide advising when the adopted policy will be operational in accordance Regulation 24F of the *Local Government (Functions and General) Regulations 1996*.

POLICY IMPLICATIONS

Policy 2/016 'Regional Price Preference' is proposed. Council Policies are developed if they will further the achievement of the Town of Port Hedland's strategic goals or contribute to the fulfilment of mandatory obligations. They guide the discretionary part of Councils decision making and form an essential step in the delegation of Council's powers.

The existing 2/016 'Regional Price Preference' Policy will be superseded if the amended Policy 2/016 'Regional Price Preference' is adopted by Council.

FINANCIAL IMPLICATIONS

The proposed policy was advertised in the West Australian newspaper and North West Telegraph. These advertising expenses were budgeted for. Once adopted the operational date of the policy will need to be advertised in the West Australian, these costs will be incorporated in the 2016/17 budget.

Part 8 of the proposed policy does require for the actual financial cost of applying any regional price preference to successful tenders or quotes be collated for reporting to the Council and Community in the Town's Annual Report to enable the RPP Policy to be measured as to the cost to the Town.

STRATEGIC IMPLICATIONS

Strategy 4.1 of the Town's Strategic Community Plan, Strategic and Best Practice Local Government Administration applies. The core objectives of the proposed Policies are to establish strong governance principles and thereby mitigate risks for the Town of Port Hedland, whether they be financial, reputational or other.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

A Regional Price Preference Policy is premised on the basis that it will maximise the use of competitive local business in the procurement of goods and services, supporting local business and industry and to encourage employment of local people thereby generating economic growth within the Town. Council need to be satisfied that this presumption is correct.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

Risk	That misconduct occurs involving the procurement and contracting of goods and services	That adoption of the policy increases the cost of doing business in the Town
Risk Likelihood (based on history and with existing controls)	Rare (1)	Possible (3)
Risk Impact / Consequence	Moderate (3)	Moderate (3)
Risk Rating (Prior to Treatment or Control)	Low (1-4)	Medium (5-9)
Principal Risk Theme	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile
Risk Action Plan (Controls or Treatment proposed)	Treat through adoption of Policy	Monitor through annual evaluation of the costs and benefits of the policy

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and risk ratings of 3 and 9 have been determined for these items. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

The adoption of a Regional Price Preference Policy is discretionary i.e. local governments are not legally required to prepare a policy and provide price preferences to regional businesses. Council need to determine whether they are of the view that a price preference policy will support sustainability within the local business community.

ATTACHMENT 1 TO ITEM 12.1.2

Town of Port Hedland

TOWN OF PORT HEDLAND
PROPOSED ANIMALS, ENVIRONMENT AND NUISANCES LOCAL LAW 2016

The Town of Port Hedland proposes to make a local law relating to Animals, Environment and Nuisances.

The purpose of which is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the district.

The effect being to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment, or create a nuisance, must comply.

A copy of the proposed local law may be inspected or obtained from the Town's website <http://www.porthedland.wa.gov.au/local-laws-enix> or obtained from the Civic Centre, McGregor Street, Port Hedland, Monday to Friday, and the Port Hedland and South Hedland Libraries.

Submissions regarding the proposed Town of Port Hedland Animals, Environment and Nuisances Local Law 2016 may be made to:

Chief Executive Officer
 Town of Port Hedland
 PO Box 41
 PORT HEDLAND WA 6721

Submissions are to be received by the Town of Port Hedland by 5pm Monday 11 July 2016.

Proposal to Adopt a New Regional Price Preference Policy

In accordance with Regulation 24E of the Local Government Functions and General Regulations 1996 the Town of Port Hedland proposes to adopt a policy giving regional price preference for the supply of goods and services. This policy will apply to all businesses located within the municipal boundary of the Town of Port Hedland and other businesses located within the other Local Governments of the Pilbara Region with a reciprocal policy.

A copy of the proposed policy as well as a discussion paper may be inspected or obtained from the Town's website <http://www.porthedland.wa.gov.au/> or obtained from the Civic Centre, McGregor Street, Port Hedland, Monday to Friday, and the Port Hedland and South Hedland Libraries.

Submissions about the proposed policy may be made to:

Chief Executive Officer
 Town of Port Hedland
 PO Box 41
 PORT HEDLAND WA 6721

Submissions are to be received by the Town of Port Hedland by 5pm Monday 27 June 2016.

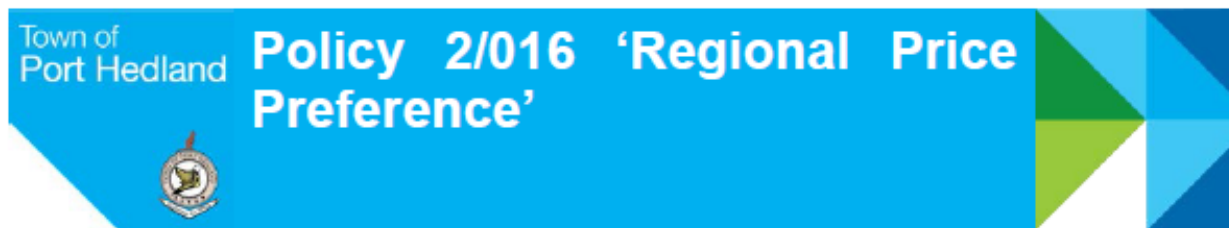
M.J. (Mali) Osborne
 Chief Executive Officer

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ATTACHMENT 2 TO ITEM 12.1.2

**2/016 REGIONAL PRICE PREFERENCE****1. Policy**

A price preference will apply to all tenders and requests for proposals invited by the Town of Port Hedland (ToPH) for the supply of goods and services and construction (building) services unless Council resolves that this policy not apply to a particular procurement episode.

2. Objective

To maximise the use of competitive local business in the procurement of goods and services, supporting local business and industry and to encourage employment of local people thereby generating economic growth within the Town.

3. Reference Documents

Local Government (Functions and General) Regulations 1996
Policy 2/007 'Purchasing'

4. Definitions

Goods: includes tangible, quantifiable material requirements usually capable of being moved or transported that are purchased, rented, leased or hired by the Town.

Services or Provision of Services: means any task, consultancy, work or advice to be performed or provided that is procured by the Town and includes services such as management consultancies, outsourcing, maintenance contract / agreement, cleaning, waste removal, equipment repairs, external auditors, utilities and services acquired by a private sector provider for the Town.

Construction (including works): performing any improvement on or over any areas of land, lake, river or ocean and any services related to that activity in the prescribed area, including the construction of buildings, housing and other public infrastructure as well as related services such as architectural, surveying, facilities management and general maintenance.

5. Regional Description

"Regional" is defined as all businesses located within the municipal boundary of the ToPH or within the municipality boundary of one of the below local governments:

- Shire of Ashburton

Town of
Port Hedland



Policy 2/016 'Regional Price Preference'

- Shire of Broome
- Shire of East Pilbara
- City of Karratha.

6. Conditions

To be consider "Regional", a Contractor / Supplier must fulfil the following conditions:

- a. Have had a permanent office and permanent staff in the prescribed area for at least 6 months before to bids being sought; and
- b. Be either registered or licensed in Western Australia; and
- c. Demonstrate a majority or all of the good or services are to be supplied from ToPH sources; or
- d. Be located within neighbouring municipalities with reciprocal similar Regional Pricing Preference Policies which benefit ToPH businesses.

7. Application

When a regional price preference is applied to tenders and requests for proposals, in accordance with the Local Government (Functions and General) Regulations (1996) the following levels of preference will be applied:

1.1 Goods and Services to a maximum price reduction of \$50,000

A 10% price preference to an eligible business, contractor or supplier as defined in this policy.

1.2 Construction (building) services up to a maximum price reduction of \$50,000

A 5% price preference to an eligible business, contractor or supplier, as defined in this policy.

1.3 Competitive Tendering

A 10% price preference to an eligible business, contractor or supplier as defined in this policy, applies where the contract is for goods and services (including construction (building) services) up to a maximum price reduction of \$500,000, if the Town is seeking tenders for the provision of goods or services for the first time, due to those goods or services having been, until then, undertaken by the Town.



Policy 2/016 'Regional Price Preference'

1.4 Application of the levels of preference in accordance with this Policy

The prices for goods and services submitted by an eligible business, contractor or supplier as defined in this policy may be either wholly supplied from within the prescribed area as the region or partly supplied from within the prescribed area as the region. However, only those goods or services supplied from within the prescribed area as the region will be included in the discounted calculations that form part of the assessment of a tender or proposal when this policy is in operation.

8. Reporting

That the actual financial cost of applying any regional price preferences to successful tender or quotes be collated for reporting to the Council and Community in the Town's Annual Report to enable the RPP Policy to be measured as to the cost to the Town and, by extrapolation the ratepayers, in annually comparing and recognising the corresponding benefits to the residents, ratepayers and business community.

Adoption Date	OCM 28 August 2013 (201314/067)
Date of adoption of amendment and Resolution Number Do not delete previous dates	
Relevant Legislation	Local Government Act 1995 Local Government (Functions and General) Regulations (1996)
Related Policy	2/007 Purchasing Policy
Delegated Authority	No
Business Unit	
Responsible Directorate	Corporate Services
Review Frequency	Annually



ATTACHMENT 3 TO ITEM 12.1.2

**2/016 REGIONAL PRICE PREFERENCE POLICY**

Directorate CORPORATE SERVICES

Business Unit Organisational Development

Application

A price preference will apply to all tenders and requests for proposals invited by the Town of Port Hedland for the supply of goods and services and construction (building) services unless Council resolves that this policy not apply to a particular procurement episode.

Objective

To maximise the use of competitive local business in the procurement of goods and services, supporting local business and industry and to encourage employment of local people thereby generating economic growth within the Town

Context

When a regional price preference is applied to tenders and requests for proposals, in accordance with the Local Government (Functions and General) Regulations (1996) the following levels of preference will be applied:

Goods and Services to a maximum price reduction of \$50,000

- A 10% price preference to an eligible business, contractor or supplier as defined in this policy.

Construction (building) services up to a maximum price reduction of \$50,000

- A 5% price preference to an eligible business, contractor or supplier, as defined in this policy.

Competitive Tendering

- A 10% price preference to an eligible business, contractor or supplier as defined in this policy, applies where the contract is for goods and services (including construction (building) services) up to a maximum price reduction of \$500,000, if the Town is seeking tenders for the provision of goods or services for the first time, due to those goods or services having been, until then, undertaken by the Town.

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2/016 REGIONAL PRICE PREFERENCE POLICY

Application of the levels of preference in accordance with this Policy

The prices for goods and services submitted by an eligible business, contractor or supplier as defined in this policy may be either wholly supplied from within the prescribed area as the region or partly supplied from within the prescribed area as the region. However, only those goods or services supplied from within the prescribed area as the region will be included in the discounted calculations that form part of the assessment of a tender or proposal when this policy is in operation.

Definitions

Prescribed Area as the Region: All business located within the municipal boundary of the Town of Port Hedland. Only business located within the Shire of East Pilbara, Shire of Roebourne, and Shire of Ashburton if these local governments have a reciprocal arrangement associated with a regional price preference will be able to receive consideration under this policy.

Goods: includes tangible, quantifiable material requirements usually capable of being moved or transported that are purchased, rented, leased or hired by the Town.

Services or Provision of Services: means any task, consultancy, work or advice to be performed or provided that is procured by the Town and includes services such as management consultancies, outsourcing, maintenance contract / agreement, cleaning, waste removal, equipment repairs, external auditors, utilities and services acquired by a private sector provider for the Town.

Construction (including works): performing any improvement on or over any areas of land, lake, river or ocean and any services related to that activity in the prescribed area, including the construction of buildings, housing and other public infrastructure as well as related services such as architectural, surveying, facilities management and general maintenance.

Regional Contractor / Supplier:

must fulfil the following conditions:

- a. Have had a permanent office and permanent staff in the prescribed area for at least 6 months before to bids being sought;
- b. Be either registered or licensed in Western Australia;



- c. Demonstrate a majority or all of the good or services are to be supplied from regional sources; and
- d. If not located within the municipal boundary of the Town of Port Hedland, be located in or source goods and services from within the municipal boundary of a local government within the Pilbara with a reciprocal Price Preference Policy under which business within the Town of Port Hedland may receive consideration under.

Supplied from within the prescribed area as the region

Examples of the Application of the Regional Price Preference Policy

Example 1- A scenario when the following 3 tenders to supply goods and services are received by the Town under this policy.

1. Tender 1 is from a respondent from within the prescribed area
2. Tender 2 is from a respondent from outside the prescribed area using goods and services sourced from outside the prescribe area.
3. Tender 3 is from a respondent from outside the prescribed area but proposing to use \$50,000 worth of goods and services from within the prescribed area.

Tenders Received	Price of Tender	Price reduction at 10% rate of preference	Adjusted price used for evaluation purposes
Tender 1	\$100,000	\$10,000 (10% of \$100,000)	\$90,000 (\$100,000 less \$10,000)
Tender 2	\$100,000	No preference applicable	\$100,000
Tender 3	\$100,000	\$5,000 (10% of \$50,000)	\$95,000 (\$100,000 less \$5,000)

As can be seen from the table, in terms of price, the tender from the respondent from within the prescribed area (Tender 1) is the most advantageous once the preference has been applied.

However, it is important to emphasise that price is only one of the criteria used to determine a successful tenderer and the Town is in no way bound to accept the lowest tender.

Town of
Port Hedland

2/016 REGIONAL PRICE PREFERENCE POLICY

Example 2- A scenario when the following 2 tenders to supply construction (building) services are received by the Town under this policy.

1. Tender 1 is from a respondent from within the prescribed area.
2. Tender 2 is from a respondent from outside the prescribed area proposing to source materials from outside the prescribed area.

Tenders received	Price of Tender	Price Reduction at 5% rate of preference	Adjusted price used for evaluation purposes
Tender 1	\$1.2m	Less 5% of \$1.2m=\$60,000 however max price reduction is limited to \$50,000	\$1.150m (\$1.2m less \$50,000)
Tender 2	\$1.145m	No preference applicable	\$1.145m

In this case, in terms of price alone, Tender 2 is the most advantageous. However, again it is important to emphasise that price is only one of the criteria used to determine a successful tenderer and the Town is in no way bound to accept the lowest tender.

Example 3- A scenario when the following 2 tenders to supply a service that has previously been provided by the Town are received by the Town under this policy.

1. Tender 1 is from a respondent from within the prescribed area.
2. Tender 2 is from a respondent from outside the prescribed area proposing to source materials from outside the prescribed area.

Tenders received	Price of Tender	Price Reduction at 5% rate of preference	Adjusted price used for evaluation purposes
Tender 1	\$6m	Less 10% of \$6m=\$600,000 however max price reduction is limited to \$500,000	\$5.5m (\$6m less \$500,000)
Tender 2	\$5.75m	No preference applicable	\$5.75m



In this case, in terms of price alone, Tender 1 is the most advantageous. However, again it is important to emphasise that price is only one of the criteria used to determine a successful tenderer and the Town is in no way bound to accept the lowest tender.

Adoption Date	<i>OCM 28 August 2013</i>
Relevant Legislation	<i>Local Government Act 1995, Local Government (Functions and general) Regulations (1996)</i>
Related Policy	<i>Town of Port Hedland Procurement Policy 2/007 and Tender Policy 2/011.</i>
Last Date of Review	<i>August 2013</i>
Review Frequency	<i>Annually</i>
Responsible Directorate	<i>Corporate Services</i>

12.2 Corporate Services

6:57pm Mayor Howlett declared an impartiality interest in item 12.2.1 'Making of the Town of Port Hedland Animals, Environment and Nuisance Local Law 2016', as she owns poultry.

6:58pm Cr Gillingham declared an impartiality interest in item 12.2.1 'Making of the Town of Port Hedland Animals, Environment and Nuisance Local Law 2016', she owns poultry.

12.2.1 Making of the Town of Port Hedland Animals, Environment and Nuisance Local Law 2016

File No:	19/01/0008
Applicant/ Proponent:	N/A
Subject Land/ Locality:	N/A
Date:	12/07/2016
Author:	Grace Waugh, Coordinator Governance, and Michael Cuvalo, Manager Environment and Community Safety
Authorising Officer:	Dale Stewart, Acting Director Corporate Services, and Adam Majid, Acting Director Community and Development Services
Disclosure of Interest from Author:	Nil
Authority/Discretion:	☒ Legislative – includes adopting local laws, town planning schemes and policies. Review when Council reviews decision made by Officers.

Attachments:

1. Gazette ready copy of the final version of the Town of Port Hedland Animals, Environment and Nuisance Local Law 2016 (Under Separate Cover)
2. Current Cat Control Local Law

CM201617/014 RECOMMENDATION/ COUNCIL DECISION

MOVED: CR HOOPER

SECONDED: CR ARIF

That with respect to the proposed Town of Port Hedland Health Local Law 2016, Council:

1. **Note the comments from the Department of Health, Department of Local Government and Communities and SAFE Hedland Inc. in relation to the proposed *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016*.**
2. **Resolve to make the Town of Port Hedland Animals, Environment and Nuisance Local Law 2016, as per Attachment 1, in accordance with section 3.12 of the Local Government Act 1995;**
 - a. **The purpose of which is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the district; and**
 - b. **The effect is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply with.**

3. Provide a copy of the adopted *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016* to the Executive Director, Public Health, for consent.
4. Upon consent being received from the Executive Director, Public Health, publish the *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016* in the *Government Gazette* and provide copies of the local law to the Minister for Local Government and Communities, and the Minister for Health.
5. Give state wide public notice after gazettal of the local law advising the title and summary of purpose and effect of the gazetted local law.
6. Submit a copy of the gazetted local law, explanatory memoranda and associated documentation to the Joint Standing Committee on Delegated Legislation for review.
7. Authorise the affixing of the Common Seal to the *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016*.

CARRIED BY ABSOLUTE MAJORITY 9/0

EXECUTIVE SUMMARY

The proposed *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016* was endorsed for public advertising purposes by Council in May 2016.

For Council to consider:

1. The comments from the Department of Health on the proposed Town of Port Hedland Animals, Environment and Nuisance Local Law 2016; and
2. The comments from the Department of Local Government and Communities on the proposed Town of Port Hedland Animals, Environment and Nuisance Local Law 2016
3. Adopt and Make the Town of Port Hedland Animals, Environment and Nuisance Local Law 2016;
4. Submit the *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016* to the Executive Director Public Health for consent, before gazettal of the local law.

BACKGROUND

The proposed *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016* was presented to the Council at its Ordinary meeting of 25 May 2016 for adoption for advertising purposes.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on the proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

The Animals, Environment and Nuisance Local Law was made in accordance with section 342 of the *Health Act 1911*, and there are additional statutory procedures that must be followed. In this regard, the Town is required to provide a final version of the proposed local law for approval to the Executive Director of Public Health prior to its adoption.

After the local law has been approved, the Town can then resolve to make the local law, and submit it to the Executive Director Public Health for consent. Once consent has been received, the Town can then publish the local law in the *Government Gazette*.

Copies of the gazetted version of the local law must be provided to the Minister for Local Government and Communities, and to the Minister for Health. Copies of the local law along with the completed Explanatory Memorandum are to be forwarded to the Joint Standing Committee on Delegated Legislation for review.

At the closure of public submissions on Monday 11 July 2016, three submissions had been received from the following organisations:

1. SAFE Hedland Inc;
2. Department of Health; and
3. Department of Local Government and Communities.

Section 1.4 'Repeal' has been included to repeal the Town of Port Hedland Local Law Cat Control as the provisions of the local law are contained in the proposed local law and covered under the Cat Act 2011 and Cat Regulations 2012.

The key items of the submissions are addressed in the table below.

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
SAFE Hedland Inc.				
1	N/A	N/A	Upon review of the proposed amendments to the Animals, Environment and Nuisances Local Law 2016, SAFE Hedland Inc. write in support of any restrictions that promotes responsible ownership and care for animals and ensuring they are not a nuisance to the community.	The comments from SAFE Hedland Inc on the proposed Animals, Environment and Nuisance Local Law 2016 are noted. The remainder of the commentary in the letter relates the Town's Dogs Local Law.
Department of Health				
1	1.5	Definitions	Complete the definition 'impervious surface' or delete.	Incomplete definition deleted.
2	1.5	Definitions	In the definition 'pigeon' change the name 'Department of Environment and Conservation' to Department of Parks and Wildlife'.	Agreed. 'pigeon' definition amended as suggested.
3	2.1	Interpretation	"Manure bin" is not a term used in Part 2 of the local law. Only "manure receptacle", which is already defined in subclause 1.4 (1), is used in Part 2. Therefore, delete the superfluous definition of 'manure bin' from subclause 2.1	Agreed. 'manure bin' definition deleted as suggested.

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
4	2.22(2)	Conditions for keeping farm animals	The Town of Port Hedland is not included in the Schedule of the Piggeries Regulations 1952, so piggeries in Port Hedland are not required to be registered pursuant to the provisions of the Health Act 1911. Therefore, this subclause requires modification. For example, it could be changed to: "An owner or occupier of premises in a rural zone shall not keep more than 1 pig, except with the written express approval of the local government."	Agreed. Clause 2.22(2) amended to read: "An owner or occupier of premises in a rural zone shall not keep more than 1 pig, except with the express written approval of the local government."
5	2.24(2)	Keeping of a miniature pig	The Town of Port Hedland is not included in the Schedule of the Piggeries Regulations 1952, so piggeries in Port Hedland are not required to be registered pursuant to the provisions of the Health Act 1911. A change must be made to subclause 2.24(2), to delete the words "or a piggery".	Agreed. Clause 2.24(2) amended as suggested.
6	2.27(1)	Impounding of livestock	In subclause 2.27 (1), change the words "Police Force" to "Police Service" as this is the correct name for the police.	Agreed. Clause 2.27(1) amended as suggested.
7	4.8(2)	Disposal of swimming pool backwash	Subclause 4.8 (2) is allowing an action (discharge of swimming pool backwash water into the street or into a storm water disposal system) that is prohibited by the provisions of section 4.1.2 of the Town of Port Hedland Health Local Laws 1999. One of the provisions must be changed so that the requirement is the same in each local law.	The Town's new Health Local Law is in the final stages of implementation and will take effect before the Animals, Environment and Nuisance Local Law is gazetted. The previous Health Local Law will; be repealed as part of the Health Local Law 2016, and this matter is not addressed in the new Health Local Law. No change is required.
8	4.9(2)	Containment of stormwater	Subclause 4.9 (2) is allowing an action (discharge of storm water into a local government approved storm water disposal	The Town's new Health Local Law is in the final stages of implementation and

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
			system) that is prohibited by the provisions of section 4.1.2 of the Town of Port Hedland Health Local Laws 1999. One of the provisions must be changed so that the requirement is the same in each local law.	will take effect before the Animals, Environment and Nuisance Local Law is gazetted. The previous Health Local Law will; be repealed as part of the Health Local Law 2016, and this matter is not addressed in the new Health Local Law. No change is required.
9	4.13(c)	Exemptions	In clause 4.13, paragraph (c); change the words "Police Force" to "Police Service" as this is the correct name for the police.	Agreed. Clause 4.13(c) amended as suggested.
Department of Local Government and Communities				
1	N/A	Head of Power	The local law currently refers to the Health Act 1911 in the title and enabling clause. Whilst the Health Act provides a head of power for local governments to make health local laws, the powers conferred by the Local Government Act 1995 may potentially provide a sufficient head of power for making Animals, Environment and Nuisance Local Laws.	The provisions under Part 2 of the local law deal with matters regulated under the Health Act 1911, therefore the appropriate Head of Power is the Health Act 1911 and the Local Government Act 1995.
2	1.4	Purpose and Effect	Clause 1.4 sets out the purpose and effect of the local law. This clause has no legislative effect and can be removed if the Town wishes. If the clause is retained, it is suggested that the capital letter is removed from "district" in subclause (1).	Noted. It is believed that the inclusion of the purpose and effect in the local law assist the public in the interpretation of the local law. No change made.
3	1.5	Definitions	Reference is made to the Code of Practice for Pigeon Keeping and the definition given refers to a Code of Practice first published in 1994 by the Pigeon Racing Federation of WA (Inc) and Independent Racing Pigeon Federation (Inc). The 1994 Code appears to have been superseded. The Animal Welfare (General) Regulations 2003 prescribe Codes of	Agreed.

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
			Practice to be adopted for the use, care, welfare, safety or health of animals. The prescribed Code of Practice relating to the keeping of pigeons appears to be the "Code of Practice for Pigeon Keeping and Racing in Western Australia" published by the then Department of Local Government and Regional Development in 2003. An example for drafting purposes only is: "Code of Practice – Pigeon Keeping means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the Animal Welfare (General) Regulations 2003 and amended from time to time;"	
4	1.5	Definitions	The definition of "affiliated person" refers to the Associations Incorporations Act 1987. That Act is now superseded by the Associations Incorporations Act 2015. The Town should amend this definition to ensure it refers to the correct Act.	Agreed. The new Associations Incorporations Act 2015 came into force on 1 July 2016.
5	1.5	Definitions	The local law uses the terms "owner" and "Residential Design Codes". It is suggested that the Town include definitions for these terms. Some suggested definitions for drafting purposes only are: owner has the meaning given to it in the Act; and Residential Design Codes means the Residential Design Codes developed by the Department of Planning to provide the basis for the control of residential development throughout Western Australia;	Agreed. The suggested definitions have been included in the definitions section of the local law.
6	1.5	Definitions	It is also suggested that the following terms be individually defined to maintain consistency:	Agreed. The suggested definitions are now separately

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
			1. food 2. food business; and 3. food premises	defined in the local law.
7	1.5	Definitions	The definition of "farm animal" in clause 1.5 provides that the local government may determine that any other animal may be classed as a farm animal. The Committee has been fairly reluctant to allow the use of determination devices as it may allow the local government to change the local law without scrutiny. The Town should be aware that the Committee may raise this as an issue.	Noted. This definition has been amended by deleting the words "or any other animal so classified by the local government".
8	1.5	Definitions	The local law makes several references to the Department of Environment and Conservation. That Department no longer exists, having been split into the Department of Environment Regulation and the Department of Parks and Wildlife on 1 July 2013. The Town should check each reference to the former DEC in the local law, determine which Department now has responsibility for the matters addressed, and update the relevant references accordingly.	This matter has been dealt with under Item 2 of the Department of Health submission.
9	3.5	Dust management	The local law makes several references to the Department of Environment and Conservation. That Department no longer exists, having been split into the Department of Environment Regulation and the Department of Parks and Wildlife on 1 July 2013. The Town should check each reference to the former DEC in the local law, determine which Department now has responsibility for the matters addressed, and update the relevant references accordingly.	Noted. This matter is now under the responsibility of Department of Environment Regulation. Clause 3.5(a) has been amended accordingly.
10	2.4(1)	Cats	Under the Cat (Uniform Local Provisions) Regulations 2013, a local law can establish a limit of how many cats are kept on	Agreed. Clause 2.4(1) redrafted as suggested.

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
			premises without approval. A member of a cat organisation can keep three times this prescribed amount before approval is required. This clause currently does not provide for this and is therefore inconsistent with the Regulations and potentially invalid to the extent of that inconsistency. It is suggested that the Town deletes the full stop and inserts: “, or if the person is a member of a cat organisation a maximum of 9 cats can be kept.”	
11	1.5	Definitions	The Town should insert a definition for “cat organisation” with it defined as: “means an organisation or association referred to in the Cat Regulations 2012 regulation 23(c);”	Agreed. New definition included under clause 1.5
12	Division 3	Keeping of bees	To ensure references to licences are differentiated in the local law, the Town may like to consider including the following definitions at the start of Part 2 Division 3 and Part 2 Division 4 respectively: In this Division, unless the context otherwise requires – licence means a licence to keep bees issued under this local law; and In this Division, unless the context otherwise requires – licence means a licence to keep farm animals issued under this local law.	Noted. The terminology used in Division 3 is ‘approval’. To ensure consistency, in clause 2.16(3) the word ‘licence’ has been amended to ‘approval’. Interpretation sections for approval and licence have been included under Divisions 2, 3 and 4 for greater clarity, and clauses renumbered accordingly.
13	2.16(1)	Notice to remove bees	The Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013 provide for the registration of beekeepers. Clause 2.16(1) should also be amended to refer to those Regulations rather than the principal Act.	Agreed. Renumbered clause 2.18(1) amended to reflect the Regulations.
14	2.24	Keeping a	Currently, subclause (1)	Agreed. Clauses (1)

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
		miniature pig	prohibits the keeping of pigs on land zoned commercial or industrial or in a residential area, subject to subclause (2). Subclause (2) prohibits the keeping of pigs everywhere, except on premises registered as an abattoir or piggery. Subclause (1) and (2) can be interpreted in two ways: (a) Pigs cannot be kept on residential, commercial or industrial areas, but can be kept in other areas if they are in a registered abattoir or piggery. (b) Pigs can be kept on residential, commercial or industrial areas as long as they are in a registered abattoir or piggery. The Town should review subclause (1) and (2) to ensure they are consistent and reflect the intention of the Town.	and (2) of renumbered clause 2.27 have been deleted and replaced with a new clause (1) as suggested: The keeping of pigs in the district, other than the keeping of a miniature pig, is forbidden, except for on premises registered by the local government as an abattoir under the provisions of section 191 of the Health Act 1911. The remaining subclauses have been renumbered accordingly.
15	3.2(1)(c)	Control of refuse	Clause 3.2(1)(c) provides that an owner or occupier must maintain a verge free of refuse. The Delegated Legislation Committee has previously had concerns with the word 'maintain' as it could be interpreted to include physical maintenance. The Committee has requested that the word 'maintain' be replaced with 'keep'.	Agreed. The word 'maintain' in clause 3.2(1)(c) has been replaced with 'keep'.
16	3.2, 3.4(1) and 4.5	Control of refuse, Prohibited activities and Escape of smoke, fumes, odours and other emissions	It is suggested that these clauses be amended so the property owner must take all "reasonable steps" to prevent the release from occurring. This will ensure that an offence only occurs when the property owner is failing to act reasonably.	Agreed. Clauses 3.2, 3.4(1) and 4.5 have been amended so that the words 'reasonable steps' are included.
17	3.9(c)	Storage or vehicles, vessels and machinery	Clause 3.9(c) provides that a person must not store, or allow to remain in public view, any vehicle or vessel or machinery parts on a lot.	Agreed. Clause 3.9(c) amended to include the reference to 'parts' for vehicles and vessels.

Item No.	Clause No.	Heading	Proposed Amendment /Comment	Town's Position /Comment
			Depending on how the clause is read, readers may believe that the mere act of parking a vehicle or vessel within public view may qualify as an offence. The Town should review this clause to ensure that it only applies in circumstances contemplated by the Town. To avoid ambiguity, the Town may wish to reword the paragraph so it refers to "any vehicle parts, vessel parts or machinery parts". If the Town chooses to make this change, the description for an offence against this clause in Schedule 1 should be updated accordingly	
18	4.4(3)(c)	Burning rubbish, refuse or other material	Clause 4.4(3)(c) states that a person may not burn a range of materials including "green garden materials". It is suggested that the reference to "green garden materials" be deleted, as the Committee has previously requested an undertaking that the term be removed – see the Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011	Agreed. Clause 4.4(3)(c) has been amended by deleting the reference to 'green garden materials'.

In addition to the above amendments, the Department of Local Government and Communities have suggested a series of minor drafting changes throughout the local law. These suggested drafting changes have been incorporated into the final local law.

The amendments suggested above are considered minor in nature and will not result in a local law significantly different from that originally proposed.

To comply with the provisions of section 3.12 of the Act, when making a local law, the Presiding Person is required give notice of the purpose and effect of the proposed local law at the Council meeting where the local law is being considered. This is achieved by:

- a) ensuring that the purpose and effect of the local law is included in the agenda for that meeting; and
- b) ensuring that the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose and effect of the Town of Port Hedland Animals, Environment and Nuisance Local Law 2016 is –

Purpose - To provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the district.

Effect - To establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply with.

CONSULTATION

Consultation in relation to the proposed local law was undertaken with Elected Members and relevant officers prior to the advertising of the local law.

Public consultation was undertaken through the placement of an advertisement in the West Australian, local newspapers and a notice was also placed on local notice boards.

LEGISLATIVE IMPLICATIONS

Section 3.12 of the Local Government Act 1995 outlines the procedure for making local laws. Section 342 of the Health Act 1911 also applies to the making of this local law. Section 3.16 of the Local Government Act 1995 states that Local Laws must be reviewed every eight years. The Town of Port Hedland commenced the review of all local laws in 2013 with sections of the Health Local Law and Cat Control Local Law have been incorporated in this local law. The Health Local Law has not been reviewed since 2000.

POLICY IMPLICATIONS

There are no Town of Port Hedland policies that relate to this item.

FINANCIAL IMPLICATIONS

Gazettal costs are currently \$100.35 per page. These costs are included in the proposed 2016/17 budget.

STRATEGIC IMPLICATIONS

Section 6.4.1 'Strategic' under Local Leadership of the Strategic Community Plan applies as it outlines that governance processes and associated policies and procedures align with leading practice and are up to date with legislative requirements.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

Risk	That the Town remains non-compliant with section 3.16 of the Local Government Act 1995 which requires local laws to be reviewed every eight years
Risk Likelihood (based on history and with existing controls)	Almost Certain (5)
Risk Impact / Consequence	Minor (2)
Risk Rating (Prior to Treatment or Control)	High (10-16)
Principal Risk Theme	Compliance - 3 Moderate - Non-compliance with significant regulatory requirements imposed
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 10 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

Council is requested to adopt the Proposed *Town of Port Hedland Animals, Environment and Nuisance Local Law 2016*.

ATTACHMENT 2 TO ITEM 12.2.1

LOCAL GOVERNMENT ACT 1995
TOWN OF PORT HEDLAND
LOCAL LAW—CAT CONTROL

In pursuance of the powers conferred upon it by the abovementioned Act and all other powers enabling it the Council of the abovementioned Local Government hereby records having resolved on the 28th April 1999 to adopt the following Local Law.

Citation

1. This Local Law may be cited as the Town of Port Hedland Local Law Cat Control.

Objects

2. The object of this Local Law is—
 - (a) To encourage responsible cat ownership.
 - (b) To reduce public and environmental nuisance caused by cats.
 - (c) To promote the effective management of cats.

Interpretation

3. In this Local Law—
 - (a) "Act" means the Local Government Act 1995.
 - (b) "Authorised Person" means a person authorised by the Council to administer the provisions of this local law.
 - (c) "Council" means the Council of the Town of Port Hedland.
 - (d) "District" means the Local Government district of the Town of Port Hedland.
 - (e) "Identified Cat" means a cat identified in the manner of having a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the current address or telephone number of the owner or other person entitled to possession of the cat.
 - (f) "Premises" shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is intended to be occupied as a separate residence from any adjacent tenement.
 - (g) "Unidentified Cat" means a cat that is not identified in the manner as defined in sub-clause (e).

Cats Not To Be A Nuisance

4. No person shall keep or allow to remain on any Premises of which he or she is the owner or occupier, any cat or cats so as to be a nuisance to another person or injurious to the health of another person by reason of—

- (a) the number of cats.
 - (b) the noise or odour generated by the presence of the cat or cats.

- (c) the aggressive nature of the cat or cats.
- (d) the wandering of the cat or cats.

Limit of Cat Numbers

5.

- (a) Subject to sub-clause (b) the limit on the number of cats kept on any premises shall be three.
- (b) No person shall keep any cat on the premises where the number of cats being kept upon the premises exceeds the limit without the permission of the Council.

Identified Cats

6. No person shall without permission of the Council keep a cat over the age of three months on any premises unless the cat is an identified cat.

Authorised Persons:

7.

- (a) The Council may appoint suitable persons to be Authorised Persons for the purpose of administering this Local Law.
- (b) An Authorised Person may exercise powers conferred by this Local Law as an Authorised Person within the district.

Penalties

8.

- (a) A person who contravenes or fails to comply with any provision of this Local Law is, upon conviction, liable to a penalty of \$200 for each offence.

Modified Penalties

9.

- (a) The offences described in the table set out in the First Schedule to this Local Law are prescribed pursuant to Section 3.10 and 9.17 of the Act as an offence to which a modified penalty applies and the amount appearing in that table directly opposite an offence is the prescribed modified penalty payable in respect of that offence if dealt with pursuant to this sub-clause.
- (b) Where an authorised person has reason to believe that a person has committed an offence of the kind described in the First Schedule a notice may be served on that person in the form contained in the Second Schedule (in this clause referred to as "an Infringement Notice") informing the person that if the person does not wish to have a complaint of the alleged offence heard and determined by a Court the person may pay to Council, within the time therein specified, the amount prescribed as the modified penalty.
- (c) An Infringement Notice may be served on an alleged offender personally or by posting it to that person's address as ascertained from that person at the time of or immediately following the occurrence giving rise to the allegation of the offence.

- (d) Where a person who received an Infringement Notice fails to pay the prescribed penalty within the time specified in the Notice, or within any further time as in any particular case is allowed by the Council, the person is deemed to have declined to have the allegation dealt with by way of a modified penalty.
- (e) An alleged offender on whom an Infringement Notice has been served may, within the time specified in the Notice or further time as in any particular case allowed by the Council, send or deliver to the Council the amount of the prescribed penalty, with or without a reply as to the circumstances giving rise to the allegation, and the Council may thereupon—
- (i) appropriate that amount in satisfaction of the penalty and issue an acknowledgment:
 - Or
 - (ii) withdraw the Infringement Notice and refund the amount to be so paid.
- (f) An Infringement Notice may, whether or not the prescribed penalty has been paid, be withdrawn by the Council by sending of a Notice in the form contained in the Third Schedule to the alleged offender at the address specified in the Notice or to the person's last known place of residence or business and in that event any amount received by way of modified penalty shall be refunded and any acknowledgment of the receipt of that amount shall for the purpose of any proceedings in respect of the alleged offence be deemed not to have been issued.
- (g) Where a person does not contest an allegation that the person committed an offence of the kind to which this clause applies, the production of an acknowledgment from the Council that the modified penalty has been paid to the Council is a defence to a charge of the offence in respect of which the modified penalty was paid.

First Schedule
Town of Port Hedland
LOCAL LAW—CAT CONTROL

Item	Clause	Nature of Offence	Modified Penalty
1	4	Keeping a cat so to be a nuisance or injurious to health	\$50
2	5(b)	Keeping more than the approved limit on the number of cats	\$50
3	6	Keeping an unidentified car over the age of three months	\$50

Second Schedule
Town of Port Hedland
LOCAL LAW—CAT CONTROL
INFRINGMENT NOTICE

No.

Date

To

It is alleged that at on the

Day of 19..... you committed an offence that
you

(Authorised Person)

You may dispose of this matter—

- (a) By payment of a penalty of \$..... within twenty-eight days of this
Notice to the Council at McGregor Street, Port Hedland; or
- (b) By having it dealt with by a Court.

If this modified penalty is not paid within the time specified, Court proceedings may be taken
against you.

Third Schedule
Town of Port Hedland
LOCAL LAW—CAT CONTROL
WITHDRAWAL OF INFRINGEMENT NOTICE

No.

Date

To

Infringement Notice No. dated/...../..... for
.....
.....
.....

Penalty \$..... is hereby withdrawn.

No further action will be taken/It is proposed to institute Court proceedings for the alleged
offence.

(Authorised Person)

12.2.2 Making of the Town of Port Hedland Health Local Law 2016

File No: 19/01/0006
 Applicant/ Proponent: N/A
 Subject Land/ Locality: N/A
 Date: 06/07/2016
 Author: Grace Waugh, Coordinator Governance, and Michael Cuvalo, Manager Environment and Community Safety
 Authorising Officer: Dale Stewart, Acting Director Corporate Services, and Adam Majid, Acting Director Community and Development Services
 Disclosure of Interest from Author: Nil
 Authority/Discretion: ☒ Legislative – includes adopting local laws, town planning schemes and policies. Review when Council reviews decision made by Officers.

Attachments:

1. Gazette read copy of the final version of the Town of Port Hedland Health Local Law 2016. 6 April 2015 (Under Separate Cover)
2. Current Town of Port Hedland Health Local Law 1999 (Under Separate Cover)

CM201617/015 RECOMMENDATION/ COUNCIL DECISION**MOVED: CR ARIF****SECONDED: CR GILLINGHAM**

That with respect to the proposed *Town of Port Hedland Health Local Law 2016*, Council:

- 1. Note the public consultation undertaken and comments from the Department of Health in relation to the proposed *Town of Port Hedland Health Local Law 2016*.**
- 2. Resolve to make the *Town of Port Hedland Health Local Law 2016*, as per Attachment 1, in accordance with section 3.12 of the *Local Government Act 1995*;**
 - a. The purpose of which is to provide a statutory means of effectively controlling issues which have the potential to adversely impact on the health and well-being of the community; and**
 - b. The effect being to allow health related issues to be sufficiently controlled so as to provide an acceptable standard for the maintenance of public health in the community and to remove obsolete and out-dated local laws relating to the district.**
- 3. Provide a copy of the adopted *Town of Port Hedland Health Local Law 2016* to the Executive Director, Public Health, for consent.**
- 4. Upon consent being received from the Executive Director, Public Health, publish the *Town of Port Hedland Health Local Law 2016* in the *Government Gazette* and provide copies of the local law to the Minister for Local Government and Communities, and the Minister for Health.**

5. Give state wide public notice after gazettal of the local law advising the title and summary of purpose and effect of gazette local law.
6. Submit a copy of the gazette local law, explanatory memoranda and associated documentation to the Joint Standing Committee on Delegated Legislation for review.
7. Authorise the affixing of the Common Seal to the *Town of Port Hedland Health Local Law 2016*.

CARRIED BY ABSOLUTE MAJORITY 9/0

EXECUTIVE SUMMARY

The proposed *Town of Port Hedland Health Local Law 2016* was endorsed for public advertising purposes by Council in November 2015 and further endorsed in February 2016 for submission to the Department of Health. It has since been advised that formal Council adoption is required prior to submission.

This agenda item seeks Council to:

1. Consider the comments from the Department of Health on the proposed *Town of Port Hedland Health Local Law 2016*;
2. Adopt and Make the Town of Port Hedland Health Local Law 2016;
3. Submit the *Town of Port Hedland Health Local Law 2016* to the Executive Director Public Health for consent, before gazettal of the local law.

BACKGROUND

The proposed *Town of Port Hedland Health Local Law 2015* was presented to the Council at its Ordinary meeting of 25 November 2015 (decision 201516/089) for adoption for advertising purposes.

The proposed local law was presented to Council at its Ordinary meeting of 24 February 2016 (decision 201516/169) for approval to submit the local law to the Executive Director, Public Health for consent. Council is then required to adopt the local law prior to the Executive Director, Public Health providing consent.

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on the proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

The Health Local Law is made in accordance with section 342 of the *Health Act 1911*, and there are additional statutory procedures that must be followed. In this regard, the Town is required to provide a final version of the proposed local law for approval to the Executive Director of Public Health prior to the local law being published in the *Government Gazette*.

Copies of the gazetted version of the local law must be provided to the Minister for Local Government and Communities, and to the Minister for Health. Copies of the local law along with the completed Explanatory Memorandum are to be forwarded to the Joint Standing Committee on Delegated Legislation for review.

Final review and comment was sought from the Department of Health on drafting changes to the *Town of Port Hedland Health Local Law 2016* in February 2016.

The Department of Health responded with one drafting change to clause 3.5(1) of the *Health Local Law 2016*; which was to remove the word 'dwelling'.

This final change does not significantly change the intent of the local law, meaning that the Town can proceed with the making process of the local law, without the need to re-advertise.

The amendment suggested above is considered minor in nature and will not result in a local law significantly different from that originally proposed.

To comply with the provisions of section 3.12 of the Act, when making a local law, the Presiding Person is required give notice of the purpose and effect of the proposed local law at the Council meeting where the local law is being considered. This is achieved by:

- a. ensuring that the purpose and effect of the local law is included in the agenda for that meeting; and
- b. by ensuring that the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose and effect of the Town of Port Hedland Health Local Law 2016 is –

Purpose – To provide a statutory means of effectively controlling issues which have the potential to adversely impact on the health and well-being of the community.

Effect – To allow health related issues to be sufficiently controlled so as to provide an acceptable standard for the maintenance of public health in the community and to remove obsolete and out-dated local laws relating to the district.

The Health Local Law was not re-presented to Council for final adoption immediately after public consultation as it is required to be presented in tandem with the Proposed Animals, Environment and Nuisances Local Law 2016. This is required as the current Health Local Law 1999 has provisions that have been included in the proposed Health Local Law 2016 and the Animals, Environment and Nuisance Local Law 2016 and therefore both of these local laws need to come into effect when the Health Local Law 1999 is revoked.

CONSULTATION

Consultation in relation to the proposed local law was undertaken with Elected Members and relevant officers prior to the advertising of the local law.

Public consultation was undertaken through the placement of an advertisement in the West Australian on 9 December 2015, local newspapers and a notice was also placed on local notice boards with the submission period for public comment closing on 21 January 2016.

At the closure of the submission period, two submissions had been received; one from the Department of Health and one from the Department of Local Government and Communities. These comments were considered by Council at their February 2016 meeting.

The proposed Local Law has not changed since previous consideration by Council at the 24 February 2016 Ordinary meeting.

LEGISLATIVE IMPLICATIONS

Section 3.12 of the Local Government Act 1995 outlines the procedure for making local laws. Section 3.16 of the Local Government Act 1995 states that Local Laws must be reviewed every eight years. The Town of Port Hedland commenced the review of all local laws in 2013 with the Health Local Law having been last amended in 2000.

POLICY IMPLICATIONS

There are no Town of Port Hedland policies that relate to this item.

FINANCIAL IMPLICATIONS

Gazettal costs are currently \$100.35 per page. These costs are included in the proposed 2016/17 budget.

STRATEGIC IMPLICATIONS

Section 6.4.1 'Strategic' under Local Leadership of the Strategic Community Plan applies as it outlines that governance processes and associated policies and procedures align with leading practice and are up to date with legislative requirements.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation. The proposed Local Law has not changed since previous consideration by Council at the 24 February 2016 Ordinary meeting.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

Risk	That the Town remains non-compliant with section 3.16 of the Local Government Act 1995 which requires local laws to be reviewed every eight years
Risk Likelihood (based on history and with existing controls)	Almost Certain (5)
Risk Impact / Consequence	Minor (2)

Risk Rating (Prior to Treatment or Control)	High (10-16)
Principal Risk Theme	Compliance - 3 Moderate - Non-compliance with significant regulatory requirements imposed
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 10 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

Council is requested to adopt the Proposed Town of Port Hedland Health Local Law 2016.

6:59pm Mayor Howlett declared an impartiality interest in item 12.2.3 'South Hedland Bowling and Tennis Club Self Supporting Loan', as she is a financial member of the South Hedland Bowling and Tennis Club, and a volunteer for the Boodarie Bowls Organising Group.

12.2.3 South Hedland Bowling and Tennis Club Self Supporting Loan

File No:	05/05/0024
Applicant/ Proponent:	South Hedland Bowling and Tennis Club
Subject Land/ Locality:	Lot 550 Hedditch Street South Hedland
Date:	04/07/2016
Author:	Tanya Reid, Leasing Officer
Authorising Officer:	Dale Stewart, Acting Director Corporate Services
Disclosure of Interest from Author:	Nil
Authority/Discretion:	☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:

1. South Hedland Bowling and Tennis Club – Self Supporting Loan Document (Under Separate Cover)
2. South Hedland Bowling and Tennis Club – Lease Agreement (Under Separate Cover)
3. South Hedland Bowling and Tennis Club – Letter of request
4. Governance Review – dae strategic Pty Ltd (Under Separate Cover)

RECOMMENDATION

That with respect to the South Hedland Bowling and Tennis Club (SHBTC) Self Supporting Loan, Council:

1. Approve an amendment to the Self Supporting Loan agreement held with the Town of Port Hedland, by way of deed of extension to delay the current loan repayment due date for six (6) months, to the 23 February 2017.
2. Approve the extension of the full term of the loan agreement by six (6) months in order to compensate this extended payment term.
3. Acknowledge that by approving the above the final payment date will be amended to reflect 23 February 2034, from 26 August 2033.
4. Request a six (6) monthly review process with the SHBTC Committee by Town representatives, in accordance with the Department of Sport and Recreation report on key recommended governance improvements.

Note: An amended officer's recommendation has been prepared following a request from one or more Elected Members at the Public Agenda Briefing on Wednesday 20 July 2016. Town officers support the amended recommendation to include a part 5 to authorise the Acting Chief Executive Officer to approve a request from the South Hedland Bowling and Tennis Club to sublease a portion of their leased area subject to conditions.

CM201617/016 AMENDED RECOMMENDATION/ COUNCIL DECISION**MOVED: CR ARIF****SECONDED: CR WHITWELL**

That with respect to the South Hedland Bowling and Tennis Club (SHBTC) Self Supporting Loan, Council:

- 1. Approve an amendment to the Self Supporting Loan agreement held with the Town of Port Hedland, by way of deed of extension to delay the current loan repayment due date for six (6) months, to the 23 February 2017.**
- 2. Approve the extension of the full term of the loan agreement by six (6) months in order to compensate this extended payment term.**
- 3. Acknowledge that by approving the above the final payment date will be amended to reflect 23 February 2034, from 26 August 2033.**
- 4. Request a six (6) monthly review process with the SHBTC Committee by Town representatives, in accordance with the Department of Sport and Recreation report on key recommended governance improvements.**
- 5. Authorise the Acting Chief Executive Officer to approve a request by the SHBTC, should such a request be received, to sublease a portion of the leased area, subject to the following conditions:**
 - a. Receiving written consent of the Ministers of Lands;**
 - b. The additional usage being restricted to a restaurant, café or similar;**
 - c. Receiving relevant approvals: and**
 - d. Other terms and conditions to the satisfaction of the Acting Chief Executive Officer.**

CARRIED 9/0

EXECUTIVE SUMMARY

A formal letter was received by the Town on 27 June 2016 from the South Hedland Bowling and Tennis Club (SHBTC) requesting an amendment to the current Self Supporting Loan (SSL) agreement they hold with the Town of Port Hedland (Town). They have requested either an extension for the next payment which is due on 26 August 2016, to be extended by two months, falling due on 26 October 2016; or the option to enter into a weekly repayment schedule commencing on 01 August 2016.

BACKGROUND

The South Hedland Bowling and Tennis club (SHBTC) have a lease over portion of Reserve 27820, Lot 550 Hedditch Street South Hedland, for a total term of twenty (20) years, which commenced in 2014. The lease is an agreement entered into over the land only with the Town of Port Hedland leaving the SHBTC to seek funding for a new development on the site, to house their operations.

In order for the club to ensure it was adequately funded for the proposed development, the SHBTC sought final top up funding from the Town of Port Hedland in the form of a SSL Agreement for a principle sum of \$500,000 plus interest accrued as per Item 2 in the schedule of the attached lease. As per Item 4 of the schedule, the interest rate on the loan would be determined at the time the Town was to drawn down on the treasury loan and at the time the treasury loan was drawn down, the interest rate was set at 5.21%.

In March 2016 the Town sought funding from the Department of Sport and Recreation to engage an external consultant to run an Advanced Governance Workshop in the Town. SHBTC were identified as a key sporting group that could benefit from this review.

David Evans from dae strategic Pty Ltd. met with the SHBTC in March 2016 to review club governance and management practices. Following his visit he provided the SHBTC with a report in June 2016 including a number of short, medium and long term recommendations. Please see attachment 4 for a full copy of the Governance Review.

Key recommendations include:

- Development of a strategic plan
- Development of annual budget and ongoing financial monitoring
- Risk monitoring
- Club Committee evaluation

At the time the Town received the letter, the SHBTC have no monies outstanding to the Town in relation to the loan repayment and have met all payments in the past on time.

As per Item 9.1 in the schedule of the lease agreement, the SSL is annexured to the lease as Annexure 2. "The Lessee acknowledges that any default in payments due under the SSL Agreements will constitute default in this lease..."

CONSULTATION

Upon an article that was in the Northwest Telegraph on Wednesday 22 June 2016 outlining a developing situation where by the SHBTC discussed openly their current financial situation, a brief meeting was held between the Mayor, Management Accountant, Leasing Officer and the previous Manager of Assets and Property Strategy to discuss current options that could be available to the SHBTC to ensure they remain within terms of their SSL. There were three options discussed and feasibility of the ability of the club to meet their repayment commitments, having reviewed their financials at this meeting.

There was additional consultation provided by the Acting Manager Recreation Services and Facilities regarding the support The Town could provide the SHBTC, by way of assistance to develop the club program, utilising the Club Development Officer resource to work with the club and its junior/adult programs.

LEGISLATIVE IMPLICATIONS

There are no relevant legislative implications. The agreement for debt is one entered into under contract (tort) law and officers are of the view that the National Credit Code does not relate to the circumstances of the Club (Local Governments are exempt from the National Credit Protection Regulations 2010, Regulation 20(7)). That notwithstanding, the lease and loan agreement provides the necessary guidance as to arbitration and default clauses.

POLICY IMPLICATIONS

The Town's Community Leasing Policy 8/004 was implemented as a tool to assist with the support and management of community group's needs. Our commitment is outlined in the policy and aims to assist in enhancing the quality of life and wellbeing of the community in accordance with Council's objectives indicated in the Strategic Community Plan.

In relation to the Debt Management Policy, the Town has a responsibility to ensure monies owed to it are recovered in a timely, effective and efficient manner to finance its operations and ensure effective cash flow management.

FINANCIAL IMPLICATIONS

There will be an impact of a single payment in this first financial year (FY16/17) however going forward will be no significant financial impact should the Council approve the officers' recommendation. This postponement of the scheduled payment will be made up by the extension of the agreement by providing an upside in FY33/34.

Annual loan (interest and principal) repayments required pursuant to the agreement are \$40,838.00, made up of two equal instalments of \$20,418.90.

The Club's current executive in writing to the Town, notes that they were unaware of the need to repay interest on the loan believing that the loan was 'interest free'.

There is nothing on the Town's file to indicate that and indeed the signed agreement indicates the repayments over the life of the loan clearly illustrating the interest component.

Whilst not requested by the Club, any consideration to waiving (as opposed to agreeing to defer its due date) one or more repayments of the Club is not recommended on the basis that:

- It has not been requested and, more importantly;
- The Council has a number of other self-supporting loans and the precedent that this would set, would have a negative financial impact in the Town's finances and;
- It would undermine the principles of 'user contributes' for community groups that provide discrete services / facilities for their members.

STRATEGIC IMPLICATIONS

2014-2024 Strategic Community Plan the Town has a commitment to ensure strategic and best practice local government administration and in building a unified and vibrant community. By resolving to extend payment terms we can ensure the organisation compliance to the terms of the SSL, no additional costs will be borne by the amendment, and the community group will be assisted to continue in operation.

Community Engagement Strategy

It's important for the Town to ensure its compliance to the Community Engagement Strategy by showing its commitment to assisting with the survival of the organisation. By keeping communication open with the group, the Town and the SHBTC can work together towards a resolution to improve the current financial position of the club, which may impact whether or not they remain in compliance with their lease agreement.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

Social fabric and wellbeing of a club such as this cannot be underestimated, and the Town will ensure that it will work closely with the Executive through the Town's Club Development Officer and the Department of Sport and Recreation.

Risk

Risk	That the SHBTC default on their next payment	That SHBTC default on the loan in its entirety
Unable to make payment due 26 August 2016	Almost Certain (5)	Possible (3)
Risk Impact / Consequence	Minor (2)	Major (4)
Risk Rating (Prior to Treatment or Control)	High (10-16)	High (10-16)
Principal Risk Theme	Financial Impact - 2 Minor - \$3,000 - \$30,000	Financial Impact - 4 Major - \$300,001 - \$3M
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation	Accept Officer Recommendation

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

Risk Rating:

With a risk rating of 12, for potential default on the loan in its entirety, the item will be placed on the Risk Register and monitored by the administration and overseen by the Audit, Risk & Governance Committee.

CONCLUSION

In order to support the longevity of the SHBTC, the Town will need to show its support with both internal and possible external assistance to protect its investment in the facility. Should the SHBTC default on their loan in its entirety then the Town, as per clause 13. Default Powers in the SSL agreement, will take possession of the facility and all fixtures, fittings and equipment. If this is to occur the Town would be responsible to search and engage a new tenant to take over the operations and SSL under the same terms.

ATTACHMENT 3 TO ITEM 12.2.3

South Hedland Bowling & Tennis Club
PO Box 2155 Hedditch St.
South Hedland
W.A. 6722
Ph: 08 9140 1168
Email: southhedlandbowls@bigpond.com
ABN: 9248 8510 990



The Honourable Mayor
Town of Port Hedland
PO Box 41
Port Hedland WA 6721

27th June 2016

Dear Madam Mayor,

Request for change to repayments on the grounds of hardship

We currently have a loan with the Town of Port Hedland the account number is paid \$20,418.90 every six months.

And we

We wish to apply to you for a variation of the above loan contract under section 72 of the National Consumer Credit Code.

We request the following:

- Each repayment to be reduced to \$790 per week. This change is requested from 01 August 2016 until further notice. Or
- The repayment due on 26th August to be postponed so that it is now due on 26th October 2016 with the next repayments being due on the following dates: 27th February 2017.

We understand that where we are requesting the payments be reduced or postponed there will be no change in the annual percentage rate and the term of the loan will be extended accordingly. We were also on the understanding that this loan was an interest free loan, but the attached *indicative payment schedule* from the TOPH actually shows an interest payment of \$514.68 per six months totalling \$310,877.31.

We are currently struggling financially due to the demands within the change of workforce hours and no tolerance of the large mining companies whom seem to govern our community and the department of racing, gaming and liquor controls.

Details of Income and Expenditure: have been attached.

We expect that we will be able to meet the obligations of our loan if you agree to this proposed change. Please consider this application as a matter of urgency.

We assume you will stay all enforcement action while you consider this application. If this is not possible, please let me/us know immediately in writing.

We await your reply in writing.

Yours sincerely

The Executive Committee
South Hedland Bowling & Tennis Club

12.2.4 Port Hedland Pony Club - License

File No:	05/05/0021
Applicant/ Proponent:	Port Hedland Pony Club
Subject Land/ Locality:	Portion of Reserve 29044
Date:	27/07/2016
Author:	Tanya Reid, Leasing Officer
Authorising Officer:	Dale Stewart, Acting Director of Corporate Services
Disclosure of Interest from Author:	Nil
Authority/Discretion:	☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:

1. Sketch of the proposed portion of Reserve 29044 to be annexured to the lease.

CM201617/017 RECOMMENDATION/ COUNCIL DECISION**MOVED: CR GILLINGHAM****SECONDED: CR MELVILLE**

That with respect to the request from the Port Hedland Pony Club to lease an additional portion of land, the Council:

- 1. Approve in principle to temporarily dispose of a portion of Reserve 29044, by way of license to become an annexure to the current lease agreement between the Town of Port Hedland and the Port Hedland Pony Club for Reserve 31462, Styles Road on the following terms and conditions:**
 - a) Initial Term – 12 months;**
 - b) First Option – 12 months.**
- 2. Authorise the Acting Chief Executive Officer to liaise with the Department of Lands on the appropriate wording of the management order purpose(s) and acknowledge that the portion of Reserve 29044 is currently set aside as a possible development site for a caravan park and should this development progress, then this portion of the lease agreement (license) would cease. The agreed vacate terms are 90 days' notice in the event that the caravan park development is approved.**
- 3. Acknowledge that there will be no additional fee payable by the Port Hedland Pony Club for the temporary use of this land.**

CARRIED 9/0**EXECUTIVE SUMMARY**

This item requests Council to approve a temporary license agreement in principle with the Port Hedland Pony Club for the use of an additional area adjacent to their current lease site to support equestrian activities.

BACKGROUND

The Town of Port Hedland (Town) holds the Management Order for Reserve 29044 with the power to lease for up to 21 years. The purpose of the reserve is Caravan Park and holiday accommodation.

Port Hedland Pony Club (PHPC) have recently sought formal approval for the use of that area, which runs adjacent to their currently leased portion of Reserve 31462 in Pretty Pool.

At present the Town is actively pursuing long term development opportunities for the site, consistent with the purpose of the reserve.

With the current timeframe unknown for the commencement of the proposed caravan park on the site, the PHPC have requested for the Town to consider a formalised agreement to support their temporary use of this area.

This is an opportunity to utilise this part of reserve in the interim to support the development of a community based group. It must be recognised that the caravan park is still being sought for this piece of land and once the development comes to fruition, the agreement between the Town of Port Hedland and the Port Hedland Pony Club will be mutually terminated, with a 90 day notice period.

The Item was moved from several Concept Forums in 2015/2016, before it was released to Council for comment in the form of an information memorandum in February 2016.

It is noted that there are further administrative processes that will need to occur in order to formalise this agreement, including the amendment of the current management order vested purpose.

CONSULTATION

In June 2015, the Town received formalised request from Owen Hightower (trading as 'RFF') who had been engaged by the Port Hedland Pony Club, to seek Council's approval for the disposal of a portion of Reserve 29044 to the PHPC to allow for expansion within the club. Over the past 12 months, the Leasing Officer has been in communications with the club to formalise the addition of this portion to its lease.

Further discussions have involved both the previous Manager of Economic Development and the previous Manager of Sport and Recreation who provided comments and feedback on the implications of this license being granted. Discussions with the previous Manager of Economic Development brought about the 90 day request to vacate period to ensure there would be no impact should the caravan project be brought forward. The previous Manager of Sport and Recreation also supported this proposal.

LEGISLATIVE IMPLICATIONS

Under the officer's recommendation, the license proposed is exempt from Section 3.58 of the Local Government Act, as they are a community group. By the annexure of this portion of land as a license to the current agreement, the licensee is granted right in common with others as opposed to exclusive use.

This proposal is subject to Section 18 of the Land Administration Act 1997, where by all disposal of land by way of lease/license is subject to approval. The Leasing officer has already sought in principle approval from the Minister and is currently awaiting further advice. Indicatively however minor administrative processes will need to be undertaken in conjunction with the Department of Lands approval, in order to formalise this agreement over this portion of Reserve 29044. The Department of Lands has the power to amend management orders (vesting orders) over reserves and the advice of the Department is that they would probably only agree to the license if the purpose(s) of the order reflected the additional use.

The Town's Local Planning Scheme provides for the use of Town Reserves for other purposes, pending all adequate planning approvals are sought by the organisation, prior to the occupation of this parcel. To ensure compliance, a clause will be inserted into the lease stipulating this condition.

Health Local Laws

The Pony Club will make application to the Town's Health Department to use the land for the keeping of horses under section 5.3.2 of the Health Local Law.

POLICY IMPLICATIONS

The PHPC lease agreement falls under the Towns' Community Leasing Policy 8/004 which would mean it would be exempt from a disposition notice.

FINANCIAL IMPLICATIONS

Should Council proceed with the recommendation of this item and once the license is formalised after a review of the management order with the Department of Lands the PHPC would not incur any additional charges for the use of the land as the temporary license agreement would be a simple annexure document to the existing lease.

The Lessee would continue to be responsible for all outgoings associated with the occupation of the site including but not limited to any capital improvements and maintenance of the site, utility costs and Local Government Rates.

In addition to the above, in accordance with the Town's standard practice, all Lessees are required to pay for the legal costs associated with the preparation of a license document.

STRATEGIC IMPLICATIONS

2014-2024 Strategic Community Plan

Per 1.2 of the 2014-2024 Strategic Community Plan, the approval of this license will enable further stability for the organisation by the use of an area that is not yet ready for development. Issuing a license over the area will not jeopardise the planned use of the space, that being Caravan and Holiday Accommodation. With the agreed vacate terms of 90 days, the parcel will be restored to its current state when this clause is activated. Where required a license will avoid permitted exclusive use of the area.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

The annexure of this portion of Reserve 29044 to the lease currently held by the PHPC will provide support to the club in enabling them to expand their current membership, without further financial commitment. It will ensure provision of accessibility to community based activities and further support the growth of the equine activities in Port Hedland.

Risk

There is a possible risk that there may be a development approved for commencement on that area, for its intended purpose. This risk has been mitigated by the inclusion of a vacate term of 90 days that can be triggered at any point during either term of the license.

Risk	That the PHPC will be not vacate the parcel upon approval of any development of the site for its intended purpose.
Risk Likelihood (based on history and with existing controls)	Unlikely (2)
Risk Impact / Consequence	Major (4)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)
Principal Risk Theme	Failure to effectively manage, coordinate and review critical projects
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation and ensure that the license does not allow infrastructure to be developed on the site without the Town's approval.

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 8 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

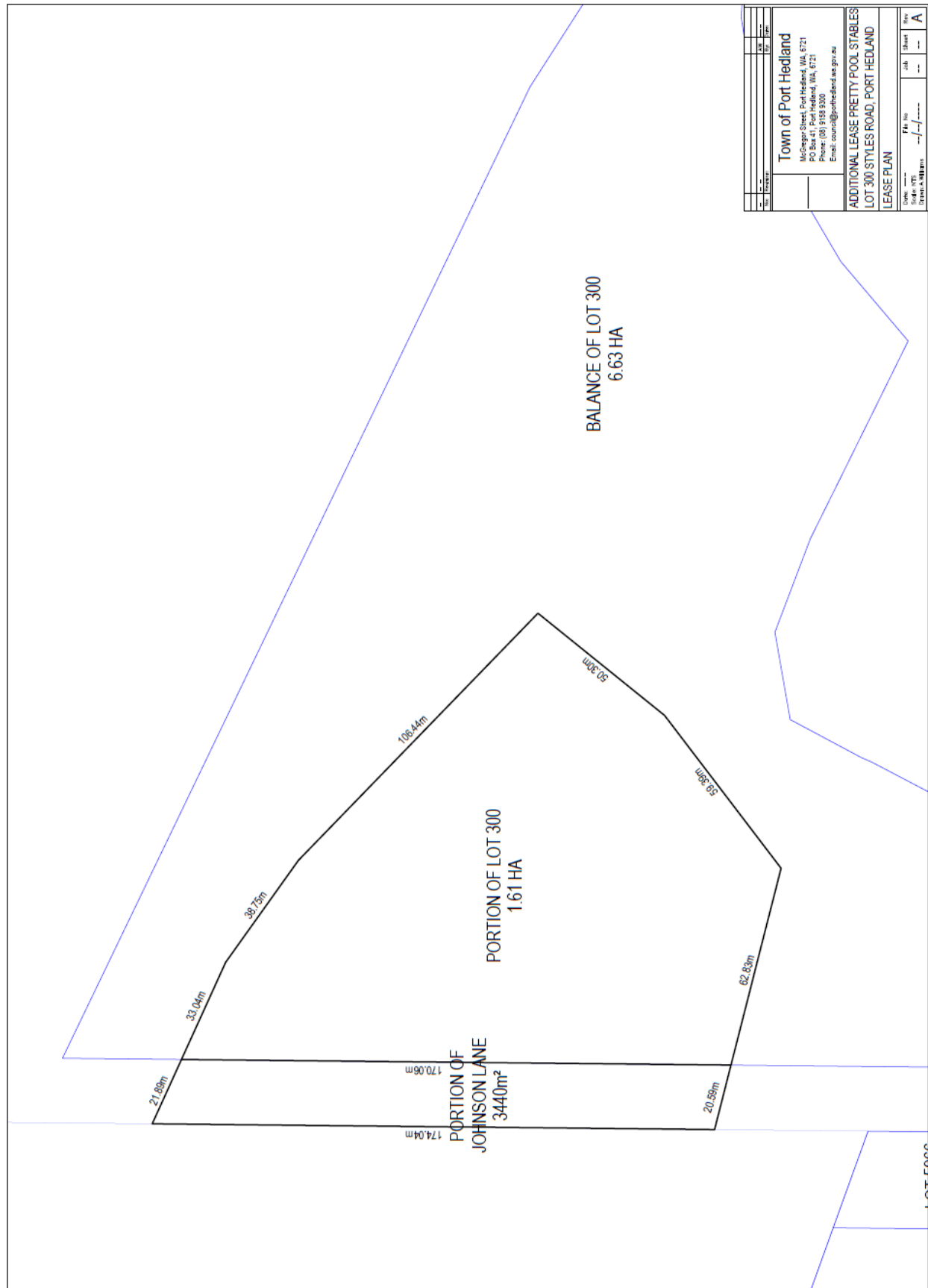
Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

The Town would be able to show further support to its community groups by formalising the agreement in principle with the PHPC over this portion of land. Currently the land is not being used so there is no apparent reason this cannot be allocated to a group that is interested in utilising it for the benefit of the organisation with the appropriate out clauses to vacate the land should it be required for its ultimate intended purposes.

ATTACHMENT 1 TO ITEM 12.2.4



12.2.5 Cyclone Emergency Support Reserve Account

File No: 09/09/0001
Applicant/ Proponent: N/A
Subject Land/ Locality: N/A
Date: 04/07/2016
Author: Manager Financial Services
Authorising Officer: Acting Director Corporate Services
Disclosure of Interest from Author: Nil
Authority/Discretion: ☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:
Nil.

CM201617/018 RECOMMENDATION/ COUNCIL DECISION

MOVED: CR HOOPER

SECONDED: CR WHITWELL

That with respect to the Cyclone Emergency Account, Council:

- 1. Approve the establishment of a Reserve Account titled “Cyclone Emergency Support Reserve Account” to utilise the remaining funds held in the “Cyclone George Trust Account” for the purpose of future emergency relief support.**
- 2. Approve the transfer of \$103,409.74 from the Cyclone George Trust Account to the Cyclone Emergency Support Reserve Account.**

CARRIED BY ABSOLUTE MAJORITY 9/0

EXECUTIVE SUMMARY

The purpose of this report is to seek Council’s approval to establish a Reserve Account titled “Cyclone Emergency Support Reserve Account” and utilise the remaining funds, being \$103,409.74 held in the “Cyclone George Trust Account” for the purpose of future emergency relief support.

BACKGROUND

Following the severe cyclone George, a "Cyclone George Relief Committee" was established on 14th March 2007. This Committee was responsible for obtaining donations and assessing requests for relief and if approved arranging for relief payments.

The Cyclone George Relief Committee was disbanded as per the below Council Resolution passed on 26 September 2007:

"Moved: Cr G D Bussell

Seconded: Cr S F Sear

That Council:

- 1. Endorse the Chief Executive Officer, on behalf Cyclone George Relief Fund Committee, to be granted delegated authority to make binding decisions on the expenditure of external funding obtained for the Cyclone George Relief Fund received after 31 July 2007; and*
- 2. the Cyclone George Relief Committee is to be disbanded; and*
- 3. create a Reserve Account "Cyclone Emergency Support "for the purpose of emergency relief support only.*

CARRIED BY ABSOLUTE MAJORITY 7/0"

In 2008, a Trust Account (rather than a reserve account as proposed) was established with a (current) balance of \$103,409.74.

Whilst the above resolution gives the Chief Executive Officer authority to expend funds received after 31 July 2007, given the lapse of time and subsequent delegation review removing the delegation referred to above, it is recommended to reiterate the purpose of the use of funds in the 16/17 budget as required under section 6.8 of the Local Government Act 1995 to create the Reserve Account.

CONSULTATION

Nil

LEGISLATIVE IMPLICATIONS

Under section 6.11 of *Local Government Act 1995* (the Act), a local government, by absolute majority, may set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.

Subject to subsection (3), a local government must give one month's local public notice of the proposed change of purpose or proposed use, should the purpose of a reserve account has been changed or use the money in a reserve account for another purpose.

Under Section 6.8 of the Act, expenditure that is not included in the annual budget requires a resolution in advance of the expenditure with Absolute Majority.

Section 6.7 of the Act details how funds held in Trust are to be accounted for.

POLICY IMPLICATIONS

Investment Policy:

All cash, investments and reserves held by the Town are placed in common investments in accordance with Local Government (Financial Management) Regulations 1996 – General Financial Management S. 6.10 for Reserves.

FINANCIAL IMPLICATIONS

It is proposed that, following Council's approval for establishing a Reserve Account, the remaining balance from the Cyclone George Trust Account will be transferred to a new account for the purpose of the reserve is to be kept separate and distinct from the Municipal Fund Account.

The transfer of funds to a reserve account will reduce the trust fund balance by \$103,409.74. It is considered appropriate to transfer funds to the above proposed account for better control and administration of the above said purpose.

The creation of the Reserve Account and purpose of Reserve Account funds will be disclosed in the annual financial report and the 16/17 Budget.

STRATEGIC IMPLICATIONS

This matter aligns with the Town of Port Hedland Strategic Community Plan 2014, mainly with the following strategic goal:

Safe, attractive and accessible environment.

Partner with key agencies and the community to prepare for, respond to and recover from emergencies such as cyclones and storm surges. Facilitate public health initiatives across our community. Partner with residents and local businesses to deliver high standard of visual amenity and cleanliness.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

Improved administration process around the fund reinsures the rate payers with the Town's ability to support the community in an unlikely event of a natural catastrophe.

Risk

Risk	That donors who contributed to the account expecting that the funds would be expensed to cyclone based activities at the time, react negatively to the perception that the Council didn't expend the funds at the time on 'that event'.
Risk Likelihood (based on history and with existing controls)	Possible (3)
Risk Impact / Consequence	Minor (2)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)
Principal Risk Theme	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 6 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

As the risk on this item is rated at 6, there is no requirement to place the item on the Town's Risk Register.

CONCLUSION

That the Council establish a Reserve Account titled "Cyclone Emergency Support Reserve Account" for the purpose of Emergency Relief Support with the Account established in accordance with the Local Government Act 1995 and utilise the remaining funds held in Trust (\$103,409.74) to establish the Reserve Account.

12.2.6 Richardson Street Boat Ramp

File No:	LSE059
Applicant/ Proponent:	N/A
Subject Land/ Locality:	Richardson Street Boat Ramp
Date:	14/07/2016
Author:	Tanya Reid, Leasing Officer
Authorising Officer:	Dale Stewart, Acting Director Corporate Services
Disclosure of Interest from Author:	Nil
Authority/Discretion:	☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:

1. Lease agreement between the Town of Port Hedland and Port Hedland Port Authority (Under Separate Cover)
2. Aerial view of the leased area as set out in the lease document

CM201617/019 COUNCIL DECISION**MOVED: CR GILLINGHAM****SECONDED: CR HOOPER**

That Council suspend sections 9.4, 9.5 and 9.9 the Town of Port Hedland Standing Orders Local Law 2014 in accordance with section 18.2 'Suspension for Standing Orders' to discuss item 12.2.6 'Richardson Street Boat Ramp'.

CARRIED 9/0

7:09pm The Mayor advised that sections 9.4, 9.5 and 9.9 of the Standing Orders Local Law 2014 are suspended.

7:09pm Councillor Arif left the room.

7:10pm The Mayor left the room.

7:11pm The Mayor re-entered the room.

7:11pm Councillor Arif re-entered the room.

CM201617/020 COUNCIL DECISION**MOVED: CR BLANCO****SECONDED: CR TAVO**

That Council resume sections 9.4, 9.5 and 9.9 the Town of Port Hedland Standing Orders Local Law 2014.

CARRIED 9/0

7:13pm The Mayor advised that sections 9.4, 9.5 and 9.9 of the Standing Orders Local Law 2014 are resumed.

CM201617/021 RECOMMENDATION/ COUNCIL DECISION**MOVED: CR BLANCO****SECONDED: CR TAVO****That with respect to Richardson Street Boat Ramp, Council:**

- 1. Authorise the Acting Chief Executive Officer to exercise the Town of Port Hedland's first term option to extend the lease on the boat ramp facility on a portion of Forrest Reserve, also known as the Richardson Street Boat Ramp, for an additional twenty one (21) years after the initial term expires on 3 September 2016;**
- 2. Request the Acting Chief Executive Officer, or his authorised officer, to investigate measures and partnerships to ensure that the boating channel under the Town's responsibility pursuant to this lease, is accessible all year round for recreational and emergency boating activities; and**
- 3. Include in the 2016/17 Budget provision of the necessary funds to undertake continuing maintenance of the facility, including the associated dredging or excavation activities.**

CARRIED 9/0

Following the Public Agenda Briefing on Wednesday 20 July 2016 one or more Elected Members asked for an alternative recommendation to be drafted on not renewing the lease with the Pilbara Port Authority for the Richardson Street Boat Ramp.

Background

On 20 July 2016, the Town received a letter from the Pilbara Port Authority, in response to the acknowledgement from the Town of the expiring lease (Annexure 2).

Notwithstanding the Town's commitment to the ongoing maintenance of the facility (clause 4) there is a responsibility to yield up to the Authority the Leased Premises clean, free from rubbish and in good substantial repair and condition (Clause 10.5) at the surrender of the leased area. In reviewing the costs associated at the determination of the lease the Town is recommended to undertake but not be limited to the below: (with indicative costs as listed below)

- A structural report on the facility to conclude extent of repairs required completed by qualified consultant (In-house Verses External - \$60k)
- Clearing of the channel to a serviceable depth by vessels (\$170k)
- Repairs and replacement of part of the launch structure if so recommended in the structural report (\$50K)
- Repairs and emplacement of any pylons as indicated in the structural report (\$110k)
- Remedial works to the existing carpark to return to original state, possible bitumen reseal(\$50k)

- Repairs to kerbing existing alongside the entry to the ramp and around the outskirts of the car park (\$5k)
- Resurfacing of driveway/entrance by boats on trailers, into the water from the car park (\$20k)
- Resurfacing of the boat ramp structure for public use (\$10k)
- Repair/ replacement of missing handrails and safety painting(10k)
- Removal of Town of Port Hedland signage and replacement of safety signage on land and at the edge of the boat ramp channel (\$5k)
- Removal/Repair of shade structure (\$10k)
- Repairs of lighting structures (\$5k).

Pursuant to clause 10.5, indicative costs would identify that the Town would incur costs of approximately \$505k at the end of the lease terms. This is on the assumption that the PPA elects to leave open the facility after it being returned to them.

In reviewing the Town's options, it should be noted that the program for the dredging of the main shipping channel is to be undertaken by the PPA, commencing in approximately 4-6 weeks. This could be seen as an optimum time for the Acting CEO to engage with the PPA to commence discussions on assistance the PPA can provide the Town on its commitments to the facility through lease obligations as advised in the letter from PPA. It is important to reiterate that should the Council decide to either exercise the first option or to surrender the leased area, the Town has a contractual requirement to commence and complete dredging/excavation works, to clear the build-up that is present at the Richardson St Boat Ramp.

It should be noted that the strategy is not recommended by the Town's officers as it potentially leaves the community without a safe, all weather, all tide, accessible boat launch and retrieval facility for recreational and emergency service boating.

Should the Council seek to not renew the lease, the following potential motion could be proposed that seeks to protect the community's interests. The Town supports the original recommendation provided in the report.

ALTERNATIVE RECOMMENDATION

That with respect to Richardson Street Boat Ramp, Council:

1. Advise the Pilbara Ports Authority (PPA) that the Town of Port Hedland (Town) elects not to exercise the first option of the lease over the Richardson Street Boat Ramp, effectively confirming the Town of Port Hedland will surrender the facility on 3 September 2016;
2. Acknowledge the Town's obligation to return the Leased Premises in good substantial repair and condition, as per clause 10.5, understanding indicative costs could be in the vicinity of \$500,000 and are to be included in the 2016/17 Budget;
3. Authorise the Acting Chief Executive Officer to enter into negotiations on behalf of the Town, a Memorandum of Understanding with the PPA that would include but not be limited to:
 - a. Continued operation of the Richardson Street Boat Ramp by the PPA until such time as an alternative facility is commissioned as part of the proposed Port Hedland Marina Development; and

4. Responsibility for all maintenance and on the facility including the boat channel to be borne by the PPA.
-

EXECUTIVE SUMMARY

The Richardson Street boat ramp is currently leased from the Pilbara Port Authority (PPA) by the Town of Port Hedland (Town), on a twenty-one (21) year lease which expires 3 September 2016.

The town has no more than three months but not less than one month to formally request to exercise the second option of twenty one (21) years, prior to the expiration of the lease.

BACKGROUND

The Richardson St boat ramp is currently leased from Pilbara Port Authority (PPA) by the Town of Port Hedland (Town), on a twenty-one (21) year lease which expires 3 September 2016. The Town has a first option of twenty one (21) years which will commence 4 September 2016 and expire on 3 September 1037.

The second term option is for eight (8) years commencing 4 September 2037 and ending 3 September 2045.

The leased area is inclusive of the boat ramp structure and commences at the high water mark encapsulating the area, to the edge of the channel. All repairs and maintenance in this leased area (annexure b) is the responsibility of the Town with the current rent for the leased area being \$1.00 per annum.

The Town is responsible for the maintenance of the leased area, including the channel which both recreational and rescue vessels utilise to launch from. The leased premises extends out past the structure to the edge of the channel which means the Town is required to ensure all vessels are able to launch into the main channel, throughout various tides.

It was confirmed with PPA that no deed of assignment for the lease was required at the time of the transition from the Port Hedland Port Authority to PPA, per correspondence received by Mr Ash Puri (Commercial Trade Manager PPA).

Council at its Meeting of 13 May 2015 resolved in part pursuant to 201415/241 Council Decision.

"That Council: ...

3. *Note that the following issues are supported:*

- a. *At the completion of the Marina Waterfront Development project that the existing Richardson Street boat ramp be removed...."*

CONSULTATION

The Leasing Officer was consulted in May 2016, by the Trade Commercial Trade Manager of PPA, who confirmed that the expiration of the initial term was coming due in September.

The Leasing Officer met with the Acting Director of Corporate Services and the Director of Works and Services to discuss the time line for the written request for exercising the first term option.

LEGISLATIVE IMPLICATIONS

The Town currently has a lease agreement in place with the PPA which means the Town and the PPA are contractually bound to comply with all lease terms, as both lessor and lessee until such a time that the agreement is terminated by default of terms (clause 11) or by the Town failing to request to exercise its first option within the specified time frame (Item 12 of the Schedule)

POLICY IMPLICATIONS

There are no relevant policies of the Town that relate to the report or lease.

FINANCIAL IMPLICATIONS

Should the Council choose to exercise its first term option the agreement terms are contained in the current lease and rent would remain at \$1.00 per annum. As per Item 6 of the schedule, there are no included rent review dates during the terms of the lease.

Maintenance on the facility and leased area is at the expense of the Lessee, along with maintenance on any approved improvements that have been made. In the past the Town of Port Hedland have completed dredging of the channelled areas at the indicative cost of \$100,000 and the last recalled dredging took place approximately 5 years ago.

As the 2016/17 budget has not been adopted by Council there is no budget to complete the dredging immediately.

Expected costs may reach \$100K to \$150K for a full channel dredge for an average of 5 years needed to maintain the depth the facility requires. There is grant funding potentially available to for this purpose, through the Department of Transport (the Recreational Boating Facilities Scheme or RFBS) that may assist to subsidise this cost upon a successful grant submission. Submissions typically open in November of each year and are announced in February and fund 75% of the works. Thus the Town should be budgeting for 25% of the estimated upper cost in the 2016/17 Budget to undertake the works in the last quarter of the 2016/17 financial year. If however the works are required prior to this for recreational and or emergency service boats retrieval and launching, then the CEO could negotiate with other partners to facilitate an earlier dredging / excavation. It could be for example that the PPA is undertaking a dredging activities within the short term that the Town could partner with to reduce overall net costs through sharing of mobilisation / demobilisation costs.

STRATEGIC IMPLICATIONS

The 2014-2024 Strategic Community Plan references the following relevant goals and strategies;

3.1 Sustainable services and infrastructure	Support the development of education, research and strategic investment opportunities for 'clean technology' industrial development and energy production Develop and maintain our infrastructure to ensure the long-term sustainability of our built and natural environment Provide and promote sustainable waste management practices, including recycling initiatives Facilitate the delivery of high quality and enduring built and natural environment
---	---

3.3 Safe, attractive and accessible environment	Partner with key agencies and the community to prepare for, respond to and recover from emergencies such as cyclones and storm surges Facilitate public health initiatives across our community Partner with residents and local businesses to deliver high standard of visual amenity and cleanliness
---	--

The adopted Pilbara's Port City Growth Plan references the following with respect to the precinct (page 86):

"Spoilbank development opportunities with coastal access and marina and accommodation" and "Richardson Street boat ramp to be closed as alternative options are developed".

The Towns Corporate Business Plan references the following action that relates:

"Develop and work with funding partners to deliver Port Hedland waterfront including development of Spoilbank Marina and Precinct in stages".

Should the Town choose to not affect the extension of lease, the Towns recreational boating and emergency service boating activities will be severely compromised with the only alternate facility being some distance away. The impact of this would have implications for response times for emergency personnel and craft attempting to rescue recreational and or other maritime users in the main port and associated nearby waterways.

An option of not effecting the renewal of lease has not been recommended due to the above risk being highlighted. Hypothetically it may be possible to renegotiate the lease for the Town to only be responsible for 'landside' maintenance (no dredging or excavation), however success of this scenario would, in the officer's opinion, be remote, and the preferred strategy to ensure continuation of the communities access to the important and strategic facility, is to effect the lease renewal.

If the Town did not give effect to its right as lessee by the 3 August 2016, the lessor would be within their right to 'close' the facility after the 3 September 2016. Notwithstanding the views espoused by the PPA in relation to their concerns over recreational boating community using the Richardson Street boat ramp to gain immediate access to the shipping channel, the likelihood of the PPA closing the ramp, were it under their direct control, is considered remote, and again not one which officers are recommending.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

The Richardson Street boat ramp is one of two boat ramps that are located in the Port Hedland area. The second ramp exists at Finucane Island, which is approximately a 27km drive from the boat ramp located in Richardson Street. This boat ramp is utilised daily by local residents and rate payers as an entry point to fishing, boating and camping opportunities in the local area. The renewal of the lease agreement vital component for Hedland Sea Rescue to ensure it can continue to operate and function for recreational vessel rescues on the eastern side of Port Hedland.

Risk

Risk	Council decides to exercise the first term option on the lease agreement with PPA and the boat ramp remains operational in the long term until completion of the Marina and Spoilbank Project and the Town is required to 'maintain' access via dredging	Council decides to not to exercise the first term option of the lease agreement, terminating the agreement putting the facility's operation at risk with possible closure
Risk Likelihood (based on history and with existing controls)	Almost Certain (5)	Possible (3)
Risk Impact / Consequence	Moderate (3)	Catastrophic (5)
Risk Rating (Prior to Treatment or Control)	High (10-16)	High (10-16)
Principal Risk Theme	Service Interruption - 5 Catastrophic - Indeterminate prolonged interruption of critical core service deliverables –	Service Interruption - 5 Catastrophic - Indeterminate prolonged interruption of critical core service deliverables –
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendations to exercise the first term option and seek partnerships and / or funding to dredge or excavate the channel	Accept Officer Recommendations to exercise the first term option and seek partnerships and / or funding to dredge or excavate the channel

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 15 has been determined for the two principal risks which, dependent upon the Council decision will be placed on the Town's Risk Register and monitored by staff and overseen by the Audit, Risk and Governance Committee. These risks will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

CONCLUSION

The Port Hedland Boat ramp is a vital piece of infrastructure for both leisure crafts and important service providers (eg. Hedland Sea Rescue) to the residents and rate payers. The risk of not exercising the option to renew the lease may result in the closure of this facility, leaving the public to travel further to use vessels which would mean larger amounts of traffic on the roads and people taking more risks when wanting to launch throughout the week.

ATTACHMENT 2 TO ITEM 12.2.6



7:14pm Councillor Arif declared an impartiality in item 12.2.7 'Interim Audit and Financial Management Review', as she is a member of the Port Hedland Yacht Club.

7:15pm Councillor Blanco declared an impartiality in item 12.2.7 'Interim Audit and Financial Management Review', as he is the Commodore of the Port Hedland Yacht Club.

7:15pm Councillor Gillingham declared an impartiality in item 12.2.7 'Interim Audit and Financial Management Review', as she is a member of the Port Hedland Yacht Club.

7:16pm Councillor Whitwell declared an impartiality in item 12.2.7 'Interim Audit and Financial Management Review', as he is a member of the Port Hedland Yacht Club.

12.2.7 Interim Audit and Financial Management Review

File No:	12/01/0002
Applicant/ Proponent:	N/A
Subject Land/ Locality:	N/A
Date:	21/06/2016
Author:	Dale Stewart, Acting Director Corporate Services
Authorising Officer:	Chris Linnell, Acting Chief Executive Officer
Disclosure of Interest from Author:	Nil
Authority/Discretion:	☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:

1. Management Letter on the interim phase of the audit for the year ending 30 June 2016 (Confidential Attachment Under Separate Cover)
2. Report of Factual Findings Report – Financial Management Review 2016 (Confidential Attachment Under Separate Cover)

CM201617/022 AUDIT, RISK AND GOVERNANCE COMMITTEE RECOMMENDATION / COUNCIL DECISION

MOVED: CR BLANCO

SECONDED: CR WHITWELL

That with respect to the Interim Audit and Financial Management Review, Council:

1. **Receive the Management Letter and accompanying annexures dated 1 June 2016 from the Town's Independent Auditor, RSM Bird Cameron (provided under confidential cover).**
2. **Receive the Report of Factual Findings and recommendations from the Town's Auditor, RSM Bird Cameron, evidencing the appropriateness and effectiveness of the financial management systems and procedures (provided under confidential cover).**

3. Note that the Acting Chief Executive Officer, as a result of the Report of Factual Findings, reports that the Town's financial management systems and procedures are appropriate, noting that the Acting Chief Executive Officer is requested to implement the recommendations contained therein.

CARRIED 9/0

RECOMMENDATION

That with respect to the Interim Audit and Financial Management Review, Council:

1. Receive and endorse the Management Letter and accompanying annexures dated 1 June 2016 from the Town's Independent Auditor, RSM Bird Cameron (provided under confidential cover).
2. Receive and endorse the Report of Factual Findings and recommendations from the Town's Auditor, RSM Bird Cameron, evidencing the appropriateness and effectiveness of the financial management systems and procedures (provided under confidential cover).
3. Note that the Acting Chief Executive Officer, as a result of the Report of Factual Findings, reports that the Town's financial management systems and procedures are appropriate and effective and request the Acting Chief Executive Officer to implement the recommendation contained therein.

EXECUTIVE SUMMARY

The Interim Audit and Financial Management Review was presented to the Audit, Risk and Governance (ARG) Committee on Tuesday 5 July 2016. The ARG Committee received the management letter and report of factual findings and recommendations.

Interim Audit

The Audit, Risk & Governance Committee reports to Council and provides appropriate advice and recommendations on matters relevant to the terms of reference. One of the principal duties is to make recommendations to Council regarding the external Audit reporting. The Interim Audit was conducted on site from 19-21 April 2016. The Management Letter from the Interim Audit was presented to the Committee and is included as Attachment 1. This letter includes:

- Updates on the issues reported in the Management Letter from the 2015 Audit;
- Updates on the points raised by UHY Haines Norton (now Moore Stephens) in the report 'Internal Audit Report as part of a review of risk management, legislative compliance and internal controls' dated April 2015; and
- Key Audit findings and management comment with respect to the findings from the current Interim Audit.

Financial Management Review (FMR)

The CEO is required to undertake a review every four financial years of the appropriateness and effectiveness of the financial management systems and procedures and report the results of the review to the Local Government.

The Town appointed the current Auditors, RSM Bird Cameron to undertake this review to ensure an in depth analysis was undertaken to provide the CEO with confidence in undertaking the FMR. As such, the Report of Factual Findings dated the 1st of June 2016 is presented to the Council as Attachment 2.

BACKGROUND

The Town's appointed Auditor, RSM Bird Cameron, completed the interim audit field work and the review of the appropriateness and effectiveness of the financial management systems and procedures onsite from the 19-21 of April 2016.

The Auditors have advised that the Management Letter and the Report of Factual Findings are intended for the sole use of the Town (presented under confidential cover).

Interim Audit

The Interim Audit is predominantly concerned with sample testing of financial transactions and a review of the internal controls, procedures and processes of the Town of Port Hedland. The Auditors have prepared a Management Letter in accordance with Auditing Standard ASA 260 *Communication with Those Charged with Governance*. The report includes audit observations, recommendations and management's formal responses.

The following is the summary of key findings as detailed in Attachment 1 (Annexure A). Recommendations and management commentary are included in the key findings:

- Non-compliance with internal purchasing policy
- Credit Card transactions

As a result of Audit procedures, the Auditors have not identified any matters of fraud and there were no disagreements with management about significant accounting matters.

Financial Management Review

The purpose of the Financial Management Review is to determine the appropriateness and effectiveness of the financial management systems and procedures in accordance with Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.

Based on the factual findings, the Town considers the financial management systems and procedures to be appropriate and effective.

The exceptions noted by RSM Bird Cameron have been presented to management as recommendations for strengthening internal controls. Management have welcomed these recommendations, discussed these in depth with the Auditors and will be taking immediate action to ensure these findings are addressed and incorporated into practice.

CONSULTATION

- The Town's Auditors, RSM Bird Cameron
- Finance Team
- Manager of Finance
- Acting Director of Corporate Services
- Executive Leadership Group
- Acting CEO

LEGISLATIVE IMPLICATIONS

Part 7 of the Local Government Act 1995 and the Local Government (Audit) Regulations 1996 details the requirements for audit.

The Department of Local Government and Communities has also prepared Operational Guideline Number 9 to provide guidelines to the Audit, Risk & Governance Committee for Audit in Local Government.

Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996* details the CEO's duties as to financial management.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The costs associated with conducting the Interim Audit and Financial Management Review are captured in the current budget.

STRATEGIC IMPLICATIONS

The Town has conducted the Interim Audit and Financial Management Review as part of its delivery of high quality corporate governance, accountability and compliance. The Town's goals and actions in this regard are set out in the Leading our Community section of the Strategic Community Plan 2014-2024.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

Risk	That the Council not endorse the view of the Acting Chief Executive Officer that the financial management systems are efficient and appropriate
Risk Likelihood (based on history and with existing controls)	Unlikely (2)
Risk Impact / Consequence	Moderate (3)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)
Principal Risk Theme	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile
Risk Action Plan (Controls or Treatment proposed)	Manage by endorsing the officer's recommendation and implementing the recommendations from the Annual Interim Financial Management Review.

Risk Matrix

Consequence Likelihood		Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 6 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

The Management Letter and Factual Findings Report are attached for the Council's review. It is clear to see that the Town has made improvements since the 2014/15 Final audit review and continues to implement improvements. Management strives to continue to build stronger internal controls within financial management.

12.2.8 Change of August 2016 Ordinary Council Meeting Date

File No: 13/06/0001
Applicant/ Proponent: N/A
Subject Land/ Locality: N/A
Date: 14/07/2016
Author: Grace Waugh, Coordinator Governance
Authorising Officer: Dale Stewart, Acting Director Corporate Services
Disclosure of Interest from Author: Nil
Authority/Discretion: ☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:
Nil

CM201617/023 RECOMMENDATION/ COUNCIL DECISION

MOVED: CR ARIF

SECONDED: CR GILLINGHAM

That with respect to the August 2016 Ordinary Council Meeting, Council:

- 1. Resolve to change the date of the Meeting from Wednesday 24 August 2016 to Wednesday 31 August 2016, commencing at 5:30pm in Council Chambers.**
- 2. Note that the Public Agenda Briefing will change from Wednesday 17 August 2016 to the date Thursday 25 August 2016, commencing at 5:30pm in Council Chambers.**
- 3. Request the Acting Chief Executive Officer, or his authorised officer, to advertise the changes accordingly.**

CARRIED 8/1

For: Mayor Howlett, Cr Blanco, Cr Gillingham, Cr Hooper, Cr Arif, Cr Newbery, Cr Whitwell, Cr Tavo
Against: Cr Melville

EXECUTIVE SUMMARY

This report seeks Council's consideration to change the meeting date of the August Ordinary Council Meeting (OCM) from Wednesday 24 August 2016 to Wednesday 31 August 2016, and the Public Agenda Briefing to Thursday 25 August 2016 as a senior Western Australian Government official will be visiting the Town of Port Hedland.

BACKGROUND

On 21 August 2016, until 25 August 2016, a senior Western Australian Government official is visiting the Pilbara region.

The Ordinary Council Meeting of 24 August 2016 coincides with the visit to Port Hedland, and therefore is proposed to be changed to another date to allow the senior Western Australian Government official's itinerary to be confirmed.

At its Ordinary Meeting held on 28 October 2015, Council determined the Ordinary Council Meeting dates up to December 2016, as shown in the following resolution:

"201516/068 AMENDED RECOMMENDATION/ COUNCIL DECISION

MOVED: CR ARIF

SECONDED: CR GILLINGHAM

That Council:

1. *Adopt the below reviewed meeting schedule for Confidential Concept Forums to commence in November 2015:*

<i>First Wednesday Each Month</i>	<i>Third Wednesday Each Month</i>
<i>5:30pm Confidential Concept Forum</i>	<i>6:30pm Confidential Concept Forum</i>

2. *Adopt and advertise the following Ordinary Council Meeting dates, times and venues for the year ahead:*

<i>Date</i>	<i>Time</i>	<i>Venue</i>
<i>Wednesday, 27 January 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 24 February 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 23 March 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 27 April 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 25 May 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 22 June 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>June/ July 2016 (Date TBC)</i>	<i>Day time (TBC)</i>	<i>Yandeyarra</i>
<i>Wednesday, 27 July 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 24 August 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 28 September 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 26 October 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 23 November 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>
<i>Wednesday, 14 December 2016</i>	<i>5:30pm</i>	<i>Council Chambers</i>

3. *Adopt Public Agenda Briefings to be held on the third Wednesday of the month, one week prior to Ordinary Council Meetings.*
4. *Adopt amended policies 1/018 'Public Agenda Briefings' as per attachment 1 and 1/019 'Confidential Concept Forums' as per attachment 2.*

CARRIED 9/0"

As there are five Wednesday's in August 2016, the Town is recommending that the OCM be held on the fifth Wednesday, and that the Public Agenda Briefing date to be determined by Council to ensure maximum time is accessible for operational deadlines for Council meeting items.

Options for the Public Agenda Briefing include to hold it on Thursday 25 August, Monday 29 August or not hold a Public Agenda Briefing. Officers recommend that the briefing is held on Thursday 25 August 2016 at 5:30pm.

CONSULTATION

Internal

- Acting Director Corporate Services
- Manager Corporate Strategy

LEGISLATIVE IMPLICATIONS

The Local Government Act 1995 Section 5.3 and Regulation 12 of the *Local Government (Administration) Regulations 1996* outline that public notice of Council and Committee meetings must be advertised with the dates, time and place a meeting will be taking place.

The Town's Standing Orders Local laws (Part 3) also relates and refers to the procedures and requirements of the Act and Regulations as aforementioned.

POLICY IMPLICATIONS

Policy 1/018 'Public Agenda Briefings' relates to this item, however, in the policy it does not specify the date or time that Public Agenda Briefings are to be held. An extract of the policy is as follows:

"POLICY CONTENT

Public Agenda Briefings will involve Elected Members, ToPH Officers, and external advisors (where appropriate) and will be open to the public.

The date and time for Public Agenda Briefings will be decided by the Town of Port Hedland Council."

FINANCIAL IMPLICATIONS

The cost of advertising the meeting dates will be incorporated in the 2016/17 budget.

STRATEGIC IMPLICATIONS

Section 4.2 'Facilitate community engagement and civic participation' of the Strategic Community Plan 2014 – 2024 applies, as changing the dates ensures maximum attendance and participation at the Public Agenda Briefing and Ordinary Council Meeting.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation if appropriate and extensive advertising and communication to relevant parties is undertaken.

Risk

Risk	That Councillors are unable to attend the proposed new date of the Ordinary Council Meeting
Risk Likelihood (based on history and with existing controls)	Possible (3)
Risk Impact / Consequence	Minor (2)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)
Principal Risk Theme	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 6 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

It is recommended that Council agree to the proposed change of date for the August 2016 Ordinary Council Meeting, to accommodate the visit by the senior Western Australian Government official's to Port Hedland.

12.2.9 Statement of Financial Activity for the period ended 30 June 2016

File No: 12/14/0003
Applicant/ Proponent: N/A
Subject Land/ Locality: N/A
Date: 07/07/2016
Author: Kathryn Crothers, Manager Financial Services
Authorising Officer: Dale Stewart, Acting Director Corporate Services
Disclosure of Interest from Author: Nil
Authority/Discretion: ☒ Information Purposes - includes items provided to Council for information purposes only, that do not require a decision of Council (i.e. - for 'noting').

Attachments:

1. Monthly Financial Health Check for the period ended 30 June 2016
2. Statement of Financial Activity for the period ended 30 June 2016 (Under Separate Cover)
3. Port Hedland International Airport Statement of Financial Activity for the period ended 30 June 2016 (Under Separate Cover)
4. Waste Management Statement of Financial Activity for the period ended 30 June 2016 (Under Separate Cover)
5. Accounts paid under delegated authority for the month of June 2016 (Under Separate Cover)
6. Credit Card Statements for the month of June 2016

CM201617/024 RECOMMENDATION/ COUNCIL DECISION**MOVED: CR ARIF****SECONDED: CR HOOPER**

That with respect to the Statement of Financial Activity for the period ended 30 June 2016, Council:

- 1. Receive the Monthly Financial Health Check;**
- 2. Receive the Statement of Financial Activity (and supporting information);**
- 3. Receive the Port Hedland International Airport Statement of Financial Activity;**
- 4. Receive the Waste Management Statement of Financial Activity;**
- 5. Note the accounts paid during June 2016 under delegated authority;**
- 6. Receive the Credit Card Statements.**

CARRIED 9/0**EXECUTIVE SUMMARY**

This report presents the Statement of Financial Activity for the period ended 30 June 2016. Supplementary information regarding the Town's financial activities is attached to this report.

Please note that the figures presented in this report and attachments are interim only and may change pending end of year non-cash (accrual) and other accounting adjustments required as part of the finalisation of the 2015/16 financial year. The Annual Financial Statements will be presented to the Council, audited by the Town's independent auditors RSM Bird Cameron.

BACKGROUND

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* requires the Town to prepare a monthly Statement of Financial Activity. The Statement of Financial Activity is presented in a similar format to the Rate Setting Statement as included in the 2015/16 Annual Budget.

When Council adopted the 2015/16 Budget on 12 August 2015, the level of materiality to be used in statements for reporting material variances was set at 10% of the amended budget; or \$100,000 of the amended budget, whichever is the lesser. The following commentary is provided on variances between year to date (YTD) actuals and year to date budget (which is now equal to the Current Budget) for the period ended 30 June 2016.

Account Description	Variance			Comment
				Operating Revenue
Rates	(1%)	(\$277,000)	↓	Actuals less than Budget due to interim rates not realised, partly due to a valuation error made by Landgate for Government properties not constructed, since reversed to vacant land GRVs.
Operating Grants, Subsidies & Contributions	5%	\$187,000	↑	Actuals greater than Budget due to the timing of invoices raised for North West Festival.
Fees & Charges	(4%)	(\$920,000)	↓	Actuals less than Budget due to General Tipping Fees & Scrap Metal and Infrastructure Maintenance Service Charges Budgets not fully realised.
Interest Earnings	(25%)	(\$894,000)	↓	Actuals less than Budget however this will balance as part of finalising the 2015/16 financial year, due to staggering maturities on investments and accruals.
Other Revenue	791%	\$57,007,000	↑	Actuals greater than Budget as a result of the Port Hedland International Airport long term lease proceeds received. Correct accounting treatment has been applied, recognising income for the period March to June 2016 and transferring funds to reserves.
				Operating Expenditure
Materials and Contracts	(5%)	(\$1,353,000)	↑	Actuals more than Budget: Underspend in Sportsgrounds and parks operations maintenance (\$0.826M), Town planning projects to be completed in 2016/17 (\$0.291M), Infrastructure maintenance (\$0.509M), Plant operating expenses (\$0.490M)

				and landfill operating and management expenses (\$0.706M); offset by payment made to TAG on handover of airport to OPCO (\$4.5M).
Utilities	12%	\$438,000	↓	Actuals less than Budget due to timing of payment of bills and consumption patterns. End of financial year accruals yet to be completed.
Depreciation	(2%)	(\$235,000)	↑	Depreciation calculation is yet to be completed for assets created in current financial year. Airport depreciation higher than budgeted.
Interest Expense	24%	\$430,000	↓	Actuals less than Budget due to timing of payments for interest on the Town's loans. The Budget also included interest repayments for Catamore Court loan. As this loan was only drawn down in June 2016 there will be minimal interest repayments this financial year. End of financial year accruals yet to be completed, once complete variance will be minimal.
Insurance Expense	(15%)	(\$184,000)	↑	Actuals greater than Budget as insurances were paid for 12 months for the Airport however the December Quarterly Budget Review (QBR) anticipated savings in this area once the airport was leased and the insurance risk transferred. Credit received was lower than budgeted.
Other Expenditure	(50%)	(\$767,000)	↑	Actuals greater than Budget due to the disposal of the Youth Involvement Council Building (non-cash item) as per Crown Land Title transfer to Youth Involvement Council Management Order.
Capital Expenditure and Revenue				
Acquisition of Infrastructure, Property, Plant and Equipment	56%	\$18,297,000	↓	Unfinished capital works projects will be added to 2016/17 budget for consideration as carryforward items.
Proceeds from the Disposal of Assets	202%	\$2,272,000	↑	Actuals greater than Budget relating to the Airport proceeds from the disposal of assets.
Capital Grants and Contributions for the Development of Assets	(41%)	(\$2,196,000)	↓	Actuals less than Budget due to timing of payment, with a large portion paid on the completion of capital works projects. Grants still to be received will be included in 2016/17 budget as a funding source for the respective carried forward capital projects.
Transfers from Reserves	(56%)	(\$11,732,000)	↓	Actuals less than Budget as Reserve transfers are completed as capital works progress. Reserve transfers for the unfinished capital projects will be included in the 2016/17 budget.
Transfers to Reserves	(2702%)	(\$163,854,000)	↑	Actuals greater than Budget as a result of the Port Hedland International Airport long term lease proceeds being restricted into the Reserve.

The net current asset position as at 30 June 2016 is \$5.053M. The unrestricted cash position as at 30 June 2016 is \$3.807M and is calculated as follows:

	2015/16 Actual (000's)
Current Assets: Cash and Investments	\$244,163
Restricted Cash – Reserves	(\$240,355)
Unrestricted Cash Position as at 30 June 2016	\$3,807

CONSULTATION

Internal consultation with the Manager of Financial Services and the Acting Director of Corporate Services. Management commentary is also requested for the material variances from the Directors and Budget Unit Responsible officers.

LEGISLATIVE IMPLICATIONS

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* requires the Town to prepare a monthly Statement of Financial Activity. The monthly Statement of Financial Activity is to be presented to the Council at an ordinary meeting within 2 months after the end of the month to which the statement relates. The operating section of the Statement of Financial Activity is shown by program in accordance with Regulation 34 (3)(b) of the *Local Government (Financial Management) Regulations 1996*.

If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, Regulation 13 of the *Local Government (Financial Management) Regulations 1996* requires the Town to prepare a list of accounts paid by the CEO each month showing for each account paid since the last such list was prepared —

- (a) the payee's name; and
- (b) the amount of the payment; and
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.

POLICY IMPLICATIONS

In accordance with regulations 34 (5) of the *Local Government (Financial Management) Regulations 1996* and *AASB 1031 Materiality*, the level to be used in statements of financial activity in 2015/16 for reporting material variances adopted by the Council on 12 August 2015 shall be:

- a) 10% of the amended budget; or
- b) \$100,000 of the amended budget; whichever is the lesser.

FINANCIAL IMPLICATIONS

A municipal surplus occurs where revenue exceeds expenditure in a particular financial year. Subject to final end of year adjustments, the current municipal surplus at 30 June 2016 is forecast to be \$5.053M, compared to the current budgeted closing position of \$1.188M. The higher than anticipated closing net current assets position is mainly attributable to underspends in municipal funded sportsgrounds, parks and infrastructure operations (\$1.6M), uncompleted municipal funded capital expenditure (\$1.5M) and lower than budgeted transfers to reserve (\$1.85M).

Uncompleted municipal funded projects include Records management software (\$220,700), Staff housing refurbishments (\$122,200), Pippingarra Road (\$130,000), Wanangkura Stadium drainage works (\$366,356) and Kerbing works (\$68,580). These projects will be included in 2016/17 budget as works in progress. The lower than budgeted transfers to reserve included waste (\$1.1M), Community facilities (\$0.49M) and Asset management (\$0.25M) due to income lower than anticipated or not received.

STRATEGIC IMPLICATIONS

The Town provides monthly Statements of Financial Activity as part of its delivery of high quality corporate governance, accountability and compliance. The Town's goals and actions in this regard are set out in the Leading our Community section of the Strategic Community Plan 2014-2024.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

The Town of Port Hedland is exposed to a number of financial risks in both its Annual Budget and Long Term Financial Plan (which is underpinned by some key assumptions).

Most of these risks exist in respect to recurrent revenue streams which are required to meet current service levels. Any reduction in these revenue streams into the future is likely to have an impact on the Town's ability to meet service levels or asset renewal funding requirements, unless the Town can replace this revenue or alternatively reduce costs.

Risk	Rates Revenue – TWA GRV Valuations/Income
	The 2015/16 Adopted Budget included rate revenue of \$3,348,800 from six mass accommodation facilities. The Town has been in active discussions with the Department of Local Government & Communities over the last two years, with respect to the rating methodology of these facilities. For the 2015/16 financial year the Department requested the Town to reduce the rate in the dollar by \$0.02, impacting on total rate yield (advertised rates model was \$3,685,176). It is likely that mass accommodation rates will come under further pressure in future years including it currently being subject to an 'out of session' valuation review.
Risk Likelihood (based on history and with existing controls)	Almost Certain (5)
Risk Impact / Consequence	Major (4)
Risk Rating (Prior to Treatment or Control)	Extreme (20-25)
Principal Risk Theme	Financial Impact - 4 Major - \$300,001 - \$3M
Risk Action Plan (Controls or Treatment proposed)	Accept Risk and review rates model once valuations are received.
Risk	Community Contribution Mia Mia
	The 2015/16 Adopted Budget includes a community contribution of \$464,845 under the Mia Mia lease. This lease expires in December 2019 and income is uncertain after this date.
Risk Likelihood (based on history and with existing controls)	Possible (3)
Risk Impact / Consequence	Major (4)
Risk Rating (Prior to Treatment or Control)	High (10-16)
Principal Risk Theme	Financial Impact - 4 Major - \$300,001 - \$3M
Risk Action Plan (Controls or Treatment proposed)	Manage by transferring income received to reserve such that the organization does not rely on the revenue for operations.
Risk	FMG Memberships
	FMG under agreement with the Town provide an annual contribution of \$500,000 towards the operations of Wanangkura Stadium. Under the agreement FMG employees are entitled to drawdown on this amount for activities through the Leisure Facilities and Matt Dann, with budgeted expenses of \$240,000 for Stadium activities and \$10,000 for Matt Dann activities, effectively providing a subsidy of \$250,000. FMG have a five year agreement with the Town which commenced on the 1 October 2012 and ends on the 30 September 2017.

Risk Likelihood (based on history and with existing controls)	Possible (3)
Risk Impact / Consequence	Major (4)
Risk Rating (Prior to Treatment or Control)	High (10-16)
Principal Risk Theme	Financial Impact - 4 Major - \$300,001 - \$3M
Risk Action Plan (Controls or Treatment proposed)	Manage by transferring net income to reserve
Risk	Waste Management Reserve
	As at 30 June 2016 the budgeted closing balance of the Waste Management Reserve is \$9.932m. Council will need to adopt a strong policy position with regards to the replenishment of the Waste Management Reserve in order to meet future capital costs for the closure and rehabilitation of the current landfill site at the end of its useful life and for the establishment of a new landfill site. The 2015/16 Budget includes income of \$2.5m from the Waste Management Reserve as a return on investment into the Municipal Fund. This reflects a rate of return of 7.48% on total waste collection services, supported by the draft Pricing Model for Waste Services.
Risk Likelihood (based on history and with existing controls)	Unlikely (2)
Risk Impact / Consequence	Major (4)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)
Principal Risk Theme	Financial Impact - 4 Major - \$300,001 - \$3M
Risk Action Plan (Controls or Treatment proposed)	Manage by building reserve balance to required level to mitigate financial loss
Risk	Scotty's Café
	The 2015/16 Adopted Budget includes a capital contribution of \$1.2m from FMG for the construction of Scotty's Café at Marquee Park. The funding agreement is currently on hold and the project will not proceed until funding has been secured. Should Council decide to fund the project from own source funds, the Town would be required to also fund operational expenses which were to be originally captured under the funding agreement with FMG for the first 3 years (\$1.1m recurrent funding requirement over 3 years).
Risk Likelihood (based on history and with existing controls)	Likely (4)
Risk Impact / Consequence	Insignificant (1)
Risk Rating (Prior to Treatment or Control)	Low (1-4)

Principal Risk Theme	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item
Risk Action Plan (Controls or Treatment proposed)	Manage by decreasing the expenditure to nil, noting income is nil.

Risk	Underground Power Debtor
	Council has one Debtor who is currently disputing the works on the basis of rateability. The value of this Debtor is over \$271K with accrued interest.
Risk Likelihood (based on history and with existing controls)	Possible (3)
Risk Impact / Consequence	Moderate (3)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)
Principal Risk Theme	Financial Impact - 3 Moderate - \$30,001 - \$300,000
Risk Action Plan (Controls or Treatment proposed)	Manage by creating provision for doubtful debt in the case that the amount is unrecoverable

Risk	Unspent Grant Funding
	The Town currently has unspent grant funding, including funding from Royalties for Regions, Country Local Government Fund and Regional Road Group. This funding is associated with capital works programs such as the South Hedland Integrated Facility, Kerbing Construction and Walkway Lighting. If the Town does not expend and acquit the funding in a timely manner the funding bodies may not approve carry-over into future years and the funding could be potentially 'lost'. This could also damage future funding opportunities.
Risk Likelihood (based on history and with existing controls)	Possible (3)
Risk Impact / Consequence	Moderate (3)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)
Principal Risk Theme	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile
Risk Action Plan (Controls or Treatment proposed)	Manage by monitoring progress towards project completion

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating has been determined for each of these items. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

The following risks have a risk rating higher than 10 and will be included on the risk register, if not currently recorded:

Risk	Rating
Rates Revenue - TWA GRV Valuations/Income	20
Community Contribution: Mia Mia	12
FMG Memberships	12

CONCLUSION

As at 30 June 2016, the net current asset position is \$5.053M compared to the current budgeted closing position for 30 June 2016 of \$1.188M. The higher than anticipated closing net current assets position is largely attributable to municipal funded uncompleted capital expenditure and lower than budgeted transfer to reserves for income not realised.

This item has highlighted any material variances and also identified any known risks and rated them accordingly.

MONTHLY FINANCIAL HEALTH CHECK



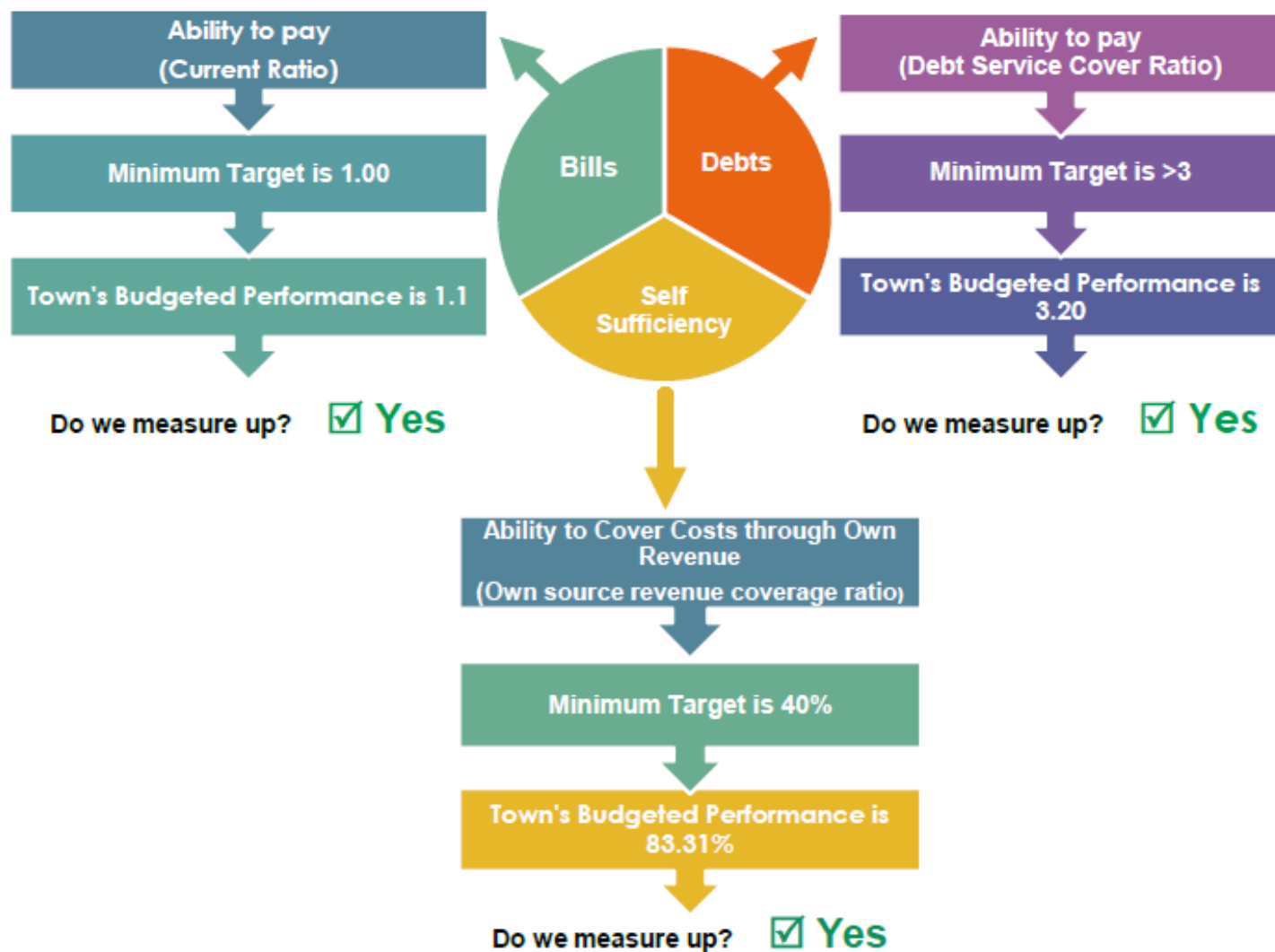
As at 30 June 2016

Highlighting how the Town of Port Hedland is tracking
against financial ratios



Financial Snapshot (Year to Date)	Actual (000's)
Operating Revenue	\$117,002
Operating Expenditure (Including Non-Cash Items)	(\$71,597)
Non-Cash Items	\$122,433
Capital Revenue	\$9,456
Capital Expenditure	(\$14,211)
Loan Repayments	(\$2,238)
Transfers to/from Reserves	(\$160,869)
Surplus Brought Forward 1 July 2015	\$5,066
Current Municipal Surplus Position at 30 June 2016	\$5,053
Current Budget Municipal Surplus Position at 30 June 2016	\$1,188

Financial health indicators



Cash in the bank



► How are we tracking against our budgeted targets?

Operating Surplus Ratio

A measure of the Town's ability to cover its operational costs including depreciation and have funds left over to cover capital expenditure (including principal loan repayments) without relying on debt or reserves.

Minimum Target is 1%

Town's Budgeted Performance is - 14%

Do we meet the target? ☒ No

- The addition of carry forwards from the December QBR and other budget adjustments including those associated with the Airport transaction has resulted in the ratio dropping below the target.
- The increase in depreciation (following revaluation of assets at fair value over the last three years) has significantly increased the annual depreciation charge and puts pressure on the operating surplus result.
- A negative ratio highlights the gap in funding infrastructure renewal expenditure from Council's own source revenue.

Asset Sustainability Ratio

Measures if the Town is replacing or renewing existing non-financial assets at the same rate that its overall asset stock is wearing out.

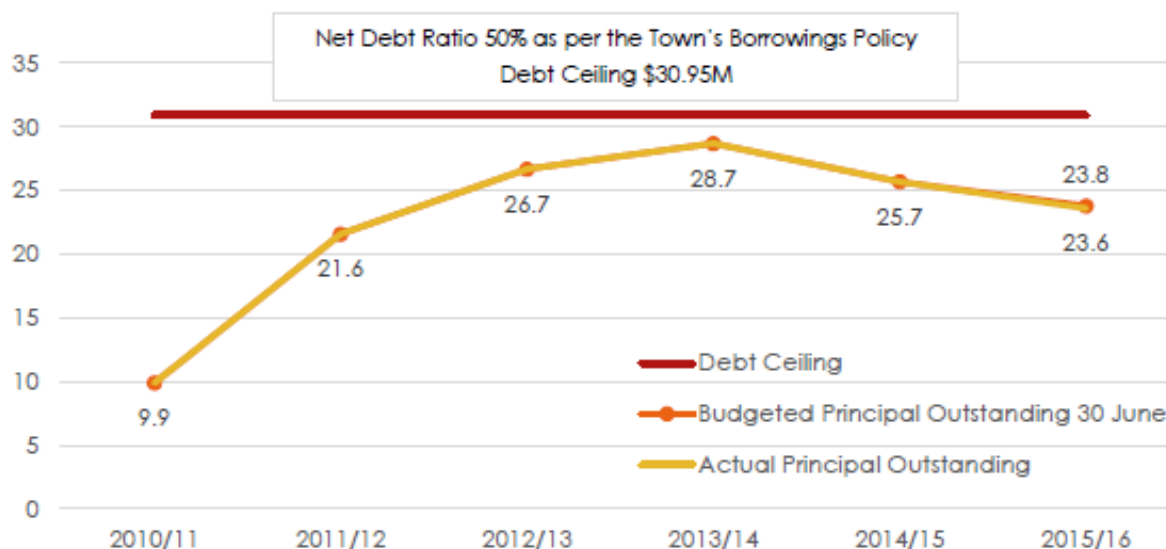
Minimum Target is 90%

Town's Budgeted performance is 49%

Do we meet the target? ☒ No

- The reduction in renewal expenditure and \$1.5M increase in the budgeted depreciation charge approved in the September QBR has had a two-fold effect on the asset sustainability ratio resulting in a decrease of the ratio below the target.
- With a history of high levels of capital expenditure in the past 4 years and \$32.5M in total capital works for the current year, we will need to ensure expenditure on capital renewal is maintained at the same rate as depreciation in the future years.

Debt levels



Current Budget Principal Outstanding Forecast at 30 June 2016 = \$23.8M

Current Budget Operating Revenue = \$61.9M

Budgeted Net Debt Ratio = 38%

Actual Net Debt Ratio = 38%

Actual Principal Outstanding 30 June 2016 = \$23.8M

Debt Ceiling 50% pursuant to Policy ($\$61.9M \times 50\%$) = \$30.95M

Intergenerational Loans

Loan Purpose	Outstanding Amount	Remaining Term
1. Marquee Park	\$4.58M	15/16 years
2. JD Hardie Upgrade	\$2.62M	15/17 years
3. Wanangkura Stadium	\$9.09M	16/17 years
4. GP Housing	\$1.35M	17 years

Any feedback on this document is greatly appreciated and can be emailed to council@porthedland.wa.gov.au

ATTACHMENT 6 TO ITEM 12.2.9**TOWN OF PORT HEDLAND****Summary of Credit Card Statements for the Month of June 2016****Attachment 6**

Account Name	Account Number	Card Holder	Debit Balance (\$)
Town of Port Hedland	██████-8331	Brendan Smith	\$4,938.94
Town of Port Hedland	██████-8349	Tandy Williams	\$7,962.45
Town of Port Hedland	██████-8364	Jessica Dodd	\$8,679.86
Town of Port Hedland	██████-8380	Mal Osborne	\$105.17
Town of Port Hedland	██████-8612	Carly Thompson	\$3,292.16
Town of Port Hedland	██████-8885	Chris Linnell	\$2,162.00
Town of Port Hedland	██████-7068	Andrea Pears	\$1,222.68
Town of Port Hedland	██████-8868	Jessica Rankin	\$7,593.40
			\$35,956.66

At the Town of Port Hedland, the Council's Corporate Services Directorate and Finance Team have an overriding objective of providing quality corporate governance; accountability; transparency and compliance and welcome any questions or queries on the credit card statements from not just Elected Members, but the general public.



NAB Connect

Transaction History Report

Account details

Account name
TOWN OF PORT HEDLAND
Account number
[REDACTED]-8868
Currency
AUD

Account balance summary

Opening balance: 0.00 CR
Total credits: 0.00 CR
Total debits: 7,593.40 DR
Closing balance: 0.00 CR

Date from: 01 June 2016
Date to: 30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
02/06/2016	CREDIT CARD PURCHASE COLES 0385		160.00 DR		160.00 DR
03/06/2016	CREDIT CARD PURCHASE DUN AND BRADSTREET AUSTRA		170.00 DR		
03/06/2016	CREDIT CARD PURCHASE DUN AND BRADSTREET AUSTRA		170.00 DR		340.00 DR
06/06/2016	CREDIT CARD PURCHASE SUSHI MASTER SOUTH HEDLAN		34.50 DR		34.50 DR
08/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		88.00 DR		88.00 DR
14/06/2016	CREDIT CARD PURCHASE TONY AVELING & ASSOCIATES		350.00 DR		
14/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		805.00 DR		1,155.00 DR
16/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131049966		326.70 DR		326.70 DR
20/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131141114		765.70 DR		
20/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131139122		765.70 DR		1,531.40 DR
23/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		406.00 DR		
23/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		667.00 DR		1,073.00 DR
24/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		406.00 DR		
24/06/2016	CREDIT CARD PURCHASE INSTITUTE OF PUBLIC WO		902.00 DR		1,308.00 DR
27/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131305356		87.70 DR		
27/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131304501		326.70 DR		414.40 DR

Transaction History Report (Continued)

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
28/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131274928		326.70 DR		
28/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131275211		835.70 DR		1,162.40 DR

Transaction History Report (Continued)

Account details		Account balance summary	
Account name		Opening balance:	0.00 CR
TOWN OF PORT HEDLAND		Total credits:	0.00 CR
Account number		Total debits:	4,938.94 DR
██████████-8331		Closing balance:	0.00 CR
Currency			
AUD		Date from:	01 June 2016
		Date to:	30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
10/06/2016	CREDIT CARD PURCHASE CENTRE FOR PAVEMENT EN		1,071.00 DR		1,071.00 DR
21/06/2016	CREDIT CARD PURCHASE RENTALCARTOLLPH131865		20.53 DR		20.53 DR
22/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		736.00 DR		736.00 DR
30/06/2016	CREDIT CARD PURCHASE WAPC FORM 1A FREEHOL		3,111.41 DR		3,111.41 DR

Transaction History Report (Continued)

Account details		Account balance summary	
Account name	TOWN OF PORT HEDLAND	Opening balance:	0.00 CR
Account number	██████████-8349	Total credits:	0.00 CR
Currency	AUD	Total debits:	7,962.45 DR
		Closing balance:	0.00 CR
		Date from:	01 June 2016
		Date to:	30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
07/06/2016	CREDIT CARD PURCHASE WOOLWORTHS 4316		170.13 DR		
07/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130841877		711.70 DR		881.83 DR
09/06/2016	CREDIT CARD PURCHASE IBIS STYLES PORT HEDLAND		130.00 DR		
09/06/2016	CREDIT CARD PURCHASE Hotel Ibis Perth FD INT		171.54 DR		301.54 DR
20/06/2016	CREDIT CARD PURCHASE MIA MIA HOUSE IN THE DESE		403.50 DR		
20/06/2016	CREDIT CARD PURCHASE MIA MIA HOUSE IN THE DESE		417.00 DR		820.50 DR
22/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		224.00 DR		
22/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		736.00 DR		
22/06/2016	CREDIT CARD PURCHASE WHENIWORK.COM		2,240.53 DR		3,200.53 DR
23/06/2016	CREDIT CARD PURCHASE POST SOUTH HEDLAND		305.95 DR		305.95 DR
24/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		406.00 DR		
24/06/2016	CREDIT CARD PURCHASE ALL MED AND PHYSICAL		434.50 DR		840.50 DR
28/06/2016	CREDIT CARD PURCHASE WITCHERY FASHIONS PT		300.00 DR		
28/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131276141		1,101.70 DR		1,401.70 DR
30/06/2016	CREDIT CARD PURCHASE WOOLWORTHS 4316		89.90 DR		
30/06/2016	CREDIT CARD PURCHASE RAIKAS CAFE PTY LTD		120.00 DR		209.90 DR

Transaction History Report (Continued)

Account details

Account name
TOWN OF PORT HEDLAND
Account number
[REDACTED]-8364
Currency
AUD

Account balance summary

Opening balance: 0.00 CR
Total credits: 0.00 CR
Total debits: 8,679.86 DR
Closing balance: 0.00 CR
Date from: 01 June 2016
Date to: 30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
01/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130736703		645.70 DR		645.70 DR
03/06/2016	CREDIT CARD PURCHASE MARKET CREATIONS PTY		715.00 DR		715.00 DR
06/06/2016	CREDIT CARD PURCHASE DROPBOX*1RWK25PF2V29		85.00 DR		
06/06/2016	CREDIT CARD PURCHASE MERCURE BROOME		541.60 DR		
06/06/2016	CREDIT CARD PURCHASE MERCURE BROOME		676.00 DR		
06/06/2016	CREDIT CARD PURCHASE MERCURE BROOME		676.00 DR		
06/06/2016	CREDIT CARD PURCHASE MERCURE BROOME		676.00 DR		
06/06/2016	CREDIT CARD PURCHASE MERCURE BROOME		676.00 DR		
06/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130824816		835.70 DR		4,166.30 DR
09/06/2016	CREDIT CARD PURCHASE MAILCHIMP		68.65 DR		68.65 DR
10/06/2016	CREDIT CARD PURCHASE WOOLWORTHS ON LINE		159.70 DR		
10/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		406.00 DR		565.70 DR
13/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130975243		516.70 DR		516.70 DR
15/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		337.00 DR		337.00 DR
16/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952131089692		446.70 DR		446.70 DR
20/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		667.00 DR		667.00 DR
21/06/2016	CREDIT CARD PURCHASE Mercure Hotel Perth FD IN		182.70 DR		182.70 DR
22/06/2016	CREDIT CARD PURCHASE POST SOUTH HEDLAND		305.95 DR		305.95 DR
27/06/2016	CREDIT CARD PURCHASE Dropbox		6.23 DR		
27/06/2016	CREDIT CARD PURCHASE Dropbox		6.23 DR		12.46 DR
30/06/2016	CREDIT CARD PURCHASE HEDLAND EMPORIUM PTY		50.00 DR		50.00 DR

Transaction History Report (Continued)Account detailsAccount balance summary

Account name
TOWN OF PORT HEDLAND
Account number
[REDACTED]-8380
Currency
AUD

Opening balance: 0.00 CR
Total credits: 0.00 CR
Total debits: 105.17 DR
Closing balance: 0.00 CR
Date from: 01 June 2016
Date to: 30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
02/06/2016	CREDIT CARD PURCHASE CBRE		12.00 DR		
02/06/2016	CREDIT CARD PURCHASE Mercure Hotel Perth FD In		70.00 DR		82.00 DR
03/06/2016	CREDIT CARD PURCHASE TOWN OF CAMBRIDGE		5.00 DR		
03/06/2016	CREDIT CARD PURCHASE BP EXPRESS ASCOT 2244		18.17 DR		23.17 DR

Transaction History Report (Continued)Account detailsAccount balance summary

Account name
TOWN OF PORT HEDLAND
Account number
[REDACTED]-8612
Currency
AUD

Opening balance: 0.00 CR
Total credits: 0.00 CR
Total debits: 3,292.16 DR
Closing balance: 0.00 CR
Date from: 01 June 2016
Date to: 30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
01/06/2016	CREDIT CARD PURCHASE FACEBK *WVA6E9N5Y2		101.36 DR		101.36 DR
02/06/2016	CREDIT CARD PURCHASE AST MANAGEMENT PTY L		1,040.00 DR		1,040.00 DR
13/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130987523		537.70 DR		
13/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130986883		537.70 DR		
13/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130988414		537.70 DR		
13/06/2016	CREDIT CARD PURCHASE VIRGIN AUST 7952130987741		537.70 DR		2,150.80 DR

Transaction History Report (Continued)**Account details**

Account name
TOWN OF PORT HEDLAND
Account number
[REDACTED]-8885
Currency
AUD

Account balance summary

Opening balance: 0.00 CR
Total credits: 0.00 CR
Total debits: 2,162.00 DR
Closing balance: 0.00 CR

Date from: 01 June 2016
Date to: 30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
28/06/2016	CREDIT CARD PURCHASE DEPARTMENT OF COMMER		868.00 DR		868.00 DR
29/06/2016	CREDIT CARD PURCHASE CLINIPATH PATHOLOGY AND B		40.00 DR		
29/06/2016	CREDIT CARD PURCHASE CLINIPATH PATHOLOGY AND B		40.00 DR		80.00 DR
30/06/2016	CREDIT CARD PURCHASE QANTAS AIRWAYS		1,214.00 DR		1,214.00 DR

Transaction History Report (Continued)

<u>Account details</u>		<u>Account balance summary</u>	
Account name		Opening balance:	0.00 CR
TOWN OF PORT HEDLAND		Total credits:	0.00 CR
Account number		Total debits:	1,222.68 DR
██████████-7068		Closing balance:	0.00 CR
Currency			
AUD		Date from:	01 June 2016
		Date to:	30 June 2016

Transaction details

Date	Narrative	Reference	Debit amount	Credit amount	EOD balance
03/06/2016	CREDIT CARD PURCHASE NORTH WEST FIRE PROT		151.45 DR		151.45 DR
08/06/2016	CREDIT CARD PURCHASE COLES 0385		86.45 DR		
08/06/2016	CREDIT CARD PURCHASE PAYPAL *ACCESSUNLIM		199.48 DR		285.93 DR
14/06/2016	CREDIT CARD PURCHASE NORTH WEST FIRE PROT		55.00 DR		
14/06/2016	CREDIT CARD PURCHASE SAI GLOBAL LIMITED		513.54 DR		568.54 DR
15/06/2016	CREDIT CARD PURCHASE WOOLWORTHS 4316		82.92 DR		82.92 DR
23/06/2016	CREDIT CARD PURCHASE WORKSENSE WORKWEAR		59.95 DR		59.95 DR
29/06/2016	CREDIT CARD PURCHASE COLES 0385		73.89 DR		73.89 DR

End of report

7:30pm Cr Gillingham declared an impartiality interest in item 12.2.10 '2016/17 Schedule of Fees and Charges', as she is a member of the Port Hedland Yacht Club.

7:30pm Cr Blanco declared an impartiality interest in item 12.2.10 '2016/17 Schedule of Fees and Charges', as he is the Commodore of the Port Hedland Yacht Club.

7:31pm Cr Arif declared an impartiality interest in item 12.2.10 '2016/17 Schedule of Fees and Charges', as she is a member of the Port Hedland Yacht Club.

7:31pm Cr Whitwell declared an impartiality interest in item 12.2.10 '2016/17 Schedule of Fees and Charges', as he is a member of the Port Hedland Yacht Club.

7:32pm Mayor Howlett declared an impartiality interest in item 12.2.10 '2016/17 Schedule of Fees and Charges', as she is a volunteer patron of the Port Hedland Netball Association.

12.2.10 2016/17 Schedule of Fees and Charges

File No:	12/13/0002
Applicant/ Proponent:	Not applicable
Subject Land/ Locality:	Not applicable
Date:	13/07/2016
Author:	Lorraine Muzambwa, Management Accountant Treasury
Authorising Officer:	Dale Stewart, Acting Director Corporate Services
Disclosure of Interest from Author:	Nil
Authority/Discretion:	☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:

1. 2016/17 Schedule of Fees and Charges, including variations (Under Separate Cover)
2. Fees & Charges presentation to Elected Members 22 June 2016
3. Notes from Fees & Charges presentation to Elected Members 22 June 2016
4. Matters Tabled by Councillor Tavo

RECOMMENDATION

That as part of the 2016/17 Annual Budget adoption process, Council consider adopting the proposed fees and charges to apply for the 2016/17 financial year in accordance with the attached schedule, noting the principal contained within is that the majority of the non-regulated fees and charges have no increase from the 2015/16 financial year.

CM201617/025 COUNCIL DECISION**MOVED: CR TAVO****SECONDED: CR BLANCO**

That as part of the 2016/17 Annual Budget adoption process, Council;

- 1. Consider adopting the proposed fees and charges to apply for the 2016/17 financial year in accordance with the attached schedule, noting the principal contained within is that the majority of the non-regulated fees and charges have no increase from the 2015/16 financial year, inclusive of the following amendments:**
 - a. Remove the Administration fee for all discounted usage under Community Ovals and Parks;**
 - b. The discount for Community Groups and Junior Community Groups under Community Ovals and Parks be changed to 75%;**
 - c. Reducing all costs under Sports Ground Charges by 75%;**
 - d. Remove the late booking fee – casual hirers under Sports Ground Charges;**
 - e. Reduce all hire costs under Faye Gladstone Netball Courts by 75%;**
 - f. Change the Community Groups/Not for Profit Organisations discount under Jim Caffey Hall to 75%;**
 - g. Change the Community Groups/Not for Profit Organisations discount under Colin Matheson Clubhouse to 75%;**
 - h. Reduce Commercial Charges under Matt Dann Cultural Centre by 50%;**
 - i. Include schools, sporting groups and community groups under community hirers for the discount on commercial hire costs for the Matt Dann Cultural Centre;**
 - j. Remove the Chief Executive Officer delegation to provide 50% concessions under the Matt Dann Cultural Centre;**
 - k. Change the Equipment Hire for Community hirers discount under the Matt Dann Cultural Centre to 75%;**
 - l. Reduce Lighting Packages costs under Matt Dann Cultural Centre by 75%;**
 - m. Include a discount under JD Hardie Centre for all facility rentals for school and sporting/community groups of 75%;**
 - n. Reduce the use of Spoilbank request fee by 80%.**

- 2. Request the Chief Executive Officer to provide comment and the relative impacts, prior to the Budget adoption, on the matters tabled by Councillor Tavo in attachment 4.**

CARRIED 5/4

For: Cr Blanco, Cr Gillingham, Cr Melville, Cr Newbery, Cr Tavo

Against: Mayor Howlett, Cr Hooper, Cr Arif, Cr Whitwell

7:47pm Councillor Melville left the meeting.

EXECUTIVE SUMMARY

The Budget Workshop held on Wednesday 22 June, 2016 concluded that there should be generally no changes to the current 2015/16 Fees and Charges Schedule, other than variations to existing those fees referred to below and or those that are imposed by statutes.

BACKGROUND

Review of the fees and charges schedule is a required annual process, in conjunction with the Annual Budget, and is performed by the responsible Town officer(s) in consultation with Elected Members.

Table 1 shows the variations to the 2015/16 schedule of fees and charges, previously adopted. The amendments are necessary to:

- Reflect variations to existing fees & charges;
- Ensure statutory imposed fees & charges within the Local Government Act (1995) and other Acts and Regulations are complied with and adjusted to reflect any changes in those statutes that occur from time to time;
- Clarify that certain charges will be based on "Price On application"; and
- Reflect the removal of charges relating to Port Hedland International Airport

Table 1.

FEES AND CHARGES	15/16 Adopted fee (\$)	Variation (\$)	Explanation
ENVIRONMENTAL HEALTH			
Trading in Public Places Licence for 1 year	\$950.00	\$1,260.00	To better reflect the cost of this service
PLANNING SERVICES			
Road and/or Pedestrian Access way closure	\$1,305.70	\$600.00	To better reflect the cost of this service
MATT DANN CULTURAL CENTRE			
Small PA System	\$268.00	\$370.00	To better reflect the cost of this service
LIBRARY & INFORMATION SERVICES			

Library – Late Book Return (per member items x2 weeks overdue)	\$2.60	\$5.00	To better reflect the cost of this service
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Table 2 outlines the new proposed fees and charges for the 2016/17 Schedule of Fees and Charges.

Table 2.

FEES AND CHARGES	New Proposed Fees & Charges (\$)	Explanation
ADMINISTRATION		
Debtors outstanding after 35 days	5.5%	To encourage payment with agreed and reasonable payment terms (35 days)
COMMUNITY OVALS AND PARKS		
Purchase of lighting swipe card	\$50.00	To better reflect the cost of this service
Use of balcony (per hour)	\$20.00	To better reflect the cost of this service
Aquatic Swim/ Water Polo Club Adult 10 pass card	\$30.00	To better reflect the cost of this service
Aquatic Swim/ Water Polo Club Child 10 pass card	\$20.00	To better reflect the cost of this service
Matt Dann Cultural Centre		
Gaffa Tape	\$25.00	To better reflect the cost of this service
Electrical Tape	\$2.00	To better reflect the cost of this service
Lighting Gel (per roll)	\$25.00	To better reflect the cost of this service
Batteries (charge per battery)	\$3.00	To better reflect the cost of this service
Haze fluid per event	\$3.00	To better reflect the cost of this service
BUILDING SERVICES		
Swimming Pool re-inspection(s) and per request outside of normal inspection programs	\$110.00	To better reflect the cost of this service
LIBRARY AND INFORMATION SERVICES		
USB Device	\$6.00	To better reflect the cost of this service
Earphones	\$2.00	To better reflect the cost of this service

CONSULTATION

The Town's finance officers have consulted with various business units to discuss the fees & charges relevant to each department and subsequently held a budget workshop with Elected Members on 22 June 2016.

LEGISLATIVE IMPLICATIONS

Fees and Charges are generally imposed under s 6.19 of the *Local Government Act 1995* and a host of other related Acts and regulations.

The Town has identified fiscal accountability as a core function in the Strategic Community Plan. The review of the Schedule of Fees and Charges falls in line with good corporate governance.

POLICY IMPLICATIONS

There are no relevant Town Policies that relate to the matter under consideration.

FINANCIAL IMPLICATIONS

The Schedule of Fees and Charges is proposed to be included in the 2016/17 Budget and used as a basis for income projections. No material changes to income are expected as a result of the amendments presented. Details of fees and charges income from different charges are contained in the attachments.

It should be noted that Town officers are still modelling waste and receptacle charges contained within the schedule however it is not anticipated that these will change significantly as part of budget deliberations, other than the potential consideration of removal of the 'premium' waste service.

STRATEGIC IMPLICATIONS

The Town's Strategic Community Plan references Strategy 4.1 Strategic and best practice local government administration with the following goals;

- Deliver high quality corporate governance accountability and compliance
- Maintain a strong and sustainable financial position.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

Risk	That the Council does not consider the fees and charges at this time
Risk Likelihood (based on history and with existing controls)	Unlikely (2)
Risk Impact / Consequence	Insignificant (1)
Risk Rating (Prior to Treatment or Control)	Low (1-4)
Principal Risk Theme	Failure to recognise, comply with or properly manage Councils statutory obligations
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 2 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Risk Rating:

Does this item need to be added to the Town's Risk Register? No

Is a Risk Treatment Plan Required? No

CONCLUSION

The proposed fees and charge charges for the 2016/17 financial year are presented for consideration prior to officers including the schedule in the proposed Budget for consideration as a whole during the next few weeks.



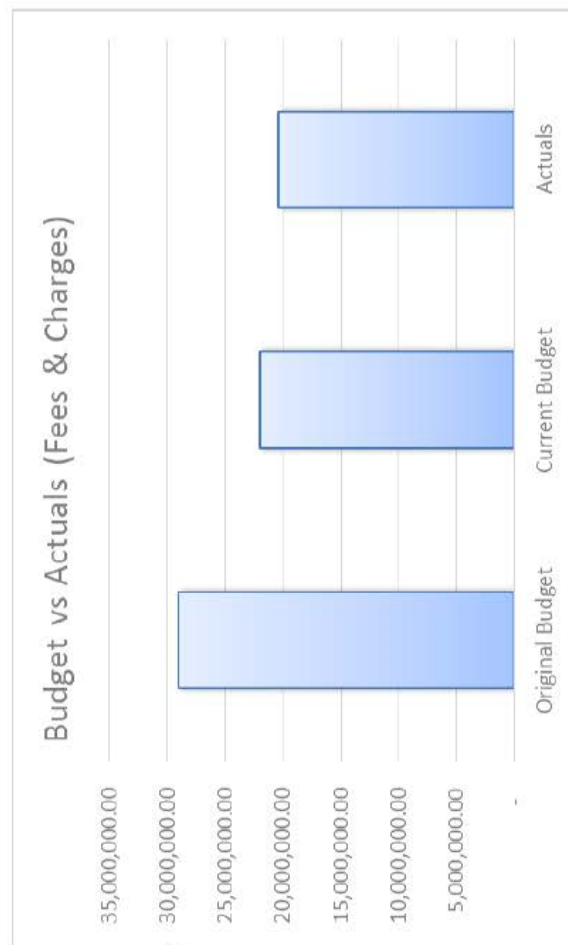
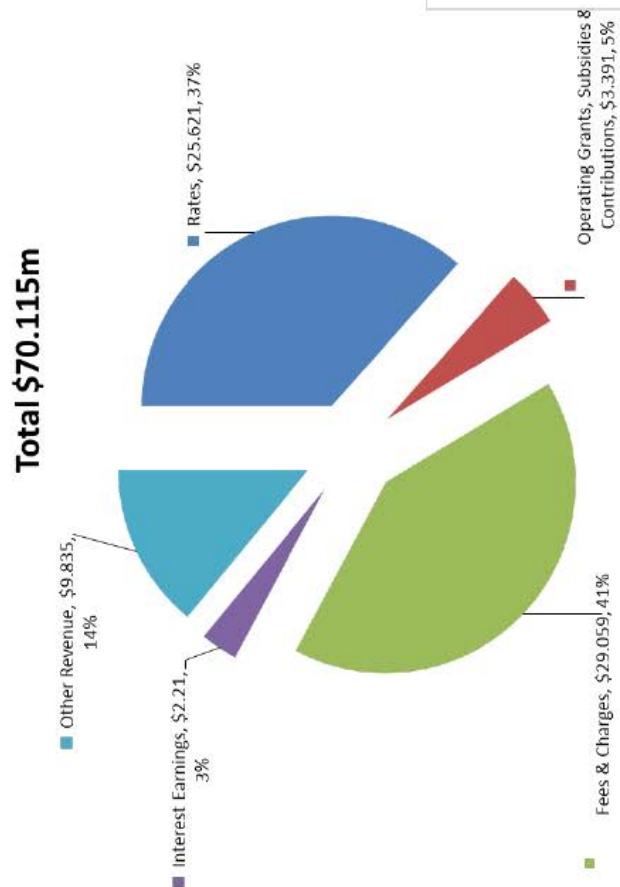
1

Fees & Charges

Budget Workshop
Wednesday 22 June 2016

Town of
Port Hedland

2015/16 Financial Analysis (Inc Airport)



Rationale

- Fees & Charges part of Annual Budget- LG Act (1995), Division 2, Sec 6.2 (4) (C)
- Public Inspection- LG Act (1995), Division 7, Section 5.94
- Financial Management Duties of the CEO- LG (Financial Management) Regulations (1996) Part 2, Sec 5
- Risk area as stated in the Accounting guidelines by the DLGC
- One stop shop



2015/16 Financial Analysis (Inc Airport)

Category	Amount (\$)
Airport	10,117,196.73
Landfill	8,580,302.58
Rates	433,890.84
Movie tickets	206,644.86
Planning Fees	189,329.73
Building Plans & Permits	152,750.64
Hire of facilities	133,952.79
Swimming Pool Inspection Levy	119,967.50
Fines	115,720.46
Kiosk Sales	86,464.81
Sports grounds	73,708.04
Environmental Health Licences	67,654.89
Pet registration	35,048.50
Library Charges	33,570.34
Term Programs	25,306.36
Service Charges- Infrastructure	20,702.29
Nursery Sales	22,570.87
Interment & Plots	14,191.73
Impounded Vehicle Charges	7,153.34
Animal Equipment Hire	1,587.72
RV Camping Fees	1,490.81
Community Bus Hire	726.55
FOI applications	360.00
Funeral Director Licence	307.40
Relationship Declaration Register	270.00
Photocopying	98.64
TOTAL FEES & CHARGES REVENUE	20,440,968.42



Legislation

Subdivision 2 — Fees and Charges

Imposition of fees and charges

6.16. (1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

Setting the level of fees and charges

6.17. (1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —

- (a) the cost to the local government of providing the service or goods;
- (b) the importance of the service or goods to the community; and

(3) Fees and charges are to be imposed when adopting the annual budget but may be —

- (a) imposed* during a financial year; and
- (b) amended* from time to time during a financial year.

* *Absolute majority required.*



Pricing Principle

Fees have been classified according to the following:

- Public Benefit- Zero to Partial Cost Recovery
 - Service provides a broad community benefit and therefore full cost recovery should generally not apply
- Shared Benefit- Partial Cost Recovery
 - Service provides both community and private benefits
- Private Benefit- Full Cost Recovery
 - Service benefits particular users making a contribution to their individual income, welfare or profits generally without any broader benefits to the community

Discretionary and Regulatory

GST Ruling



16/17 Proposed Fees and Charges

No changes from 15/16 FY

- Due to the current economic climate it is proposed that all fees and charges remain unchanged from the 15/16 Financial Year.

Variations

- Trading in Public Places licence for 1 year- increase from \$950 to \$1,260
- Planning- Road and / or Pedestrian Access-way closure- Reduce from \$1,305.70 to \$600
- MDCC- Powered PA system- currently \$268 propose to increase to \$530
- Library- Late book return- currently \$2.60 propose to increase to \$5



16/17 Proposed Fees and Charges

New Charges

- New lighting swipe card- \$50
- Colin Matheson balcony- \$20 per hour
- Sundry debtors- interest of 5.5% on debtors outstanding for than 35 days
- Aquatic Swim/ Water Polo Club Adult/ Child Pass cards- \$30/\$20
- Consumables for the Matt Dann
 - » Gaffa tape- \$5, Electrical tape- \$2, Lighting Gel- \$25 per roll, battery- \$3, Hazer fluid per event- \$5
- Swimming Pool re-inspection(s) and per request outside of normal inspection programs- \$110
- Library- USB device- \$6, Earphones \$2

Interest on money owing to local governments

6.13. (1) Subject to any other written law, a local government may resolve* to require a person to pay interest at the rate set in its annual budget on any amount of money (other than rates and service charges) which —

- (a) that person owes to the local government; and
- (b) has been owed for the period of time referred to in subsection (6).

16/17 Proposed Fees and Charges

Charges to be removed

- Marquee Park- exclusive use of events space
- Library- Level 3 & 4 facilitator charges
- Planning & Building
 - Fast track general building enquiries (5 days instead of 10)- service no longer available
 - Fast track building applications (half of stat time)
 - Electronic lodgement (by arrangement) Uncertified applications
 - Electronic lodgement (by arrangement) Certified applications
 - Electronic lodgement (by arrangement) strata, occupancy, demo and BAC
 - Fast track Fee (approved plans & orders 5 days)
 - Development Assessment Group (DAG)- part of the application fee
 - Clearance of Planning related Conditions - part of the application fee
 - On site advertising charge will be part of development applications



16/17 Proposed Fees and Charges

Aquatic Centre

- ~~Family Swim Entry (2 X Adults, 2X Children)~~—to be changed to “a combination of up to 2 x Adult Carers and a maximum of 3 children)
- ~~Aquatic Education per lesson—Child swimming lessons~~
- ~~Aquatic Education Term Fee—Child swimming program term fee~~
- ~~Single entry for swim club member— Single entry for Swim/ Water Polo Club Adult member~~
- ~~Rates Alternative Arrangement— Rates Direct Debit Arrangement~~



Attachment/ Amendments

On the attachment, you will find a list of all the Fees and Charges. The charges that are proposed to be removed are highlighted in yellow, whilst the new charges are highlighted in blue

Additions or amendments during the Financial Year are permitted, subsequent to the resolution being carried by Council

Local government to give notice of fees and charges

6.19. If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.



ATTACHMENT 3 TO ITEM 12.2.10

Concept Forum on the 22nd of June 2016

Discussion – Fees and Charges

In attendance

The meeting commenced at 4:10pm and was finished at 5:10pm

Mayor Kelly Howlett

Deputy Mayor Camilo Blanco

Councillor Richard Whitwell

Councillor Julie Arif

Councillor Jan Gillingham

Councillor David Hooper

Councillor Lincoln Tavo

Officers

Dale Stewart Acting Director Corporate Services

Kathryn Crothers Manager Financial Services

Lorraine Muzambwa Management Accountant Treasury

ADDITIONAL ATTACHMENT 4 TO ITEM 12.2.10

Matters tabled by Councillor Tavo.

Fees & Charges Changes

Intent - all sporting groups/community groups/not for profit and rate payers receive the discounts

Sports Ground Lighting

- Ensure all lighting costs reflect the cost to the Town (no increase)

Aquatic Centres

- Reduce school carnival costs by 75%
- Reduce costs to sporting groups water polo, swimming club by 75% (lane hire, water polo area etc)

WANANGKURA STADIUM

All room hires to be reduced by 75% for schools, sporting groups, community groups
Squash court hire-

- Reduce to same price squash club

Wanangkura Stadium Facility Rental (Community Groups)

- Remove min 10hr booking requirement
- Reduce costs by 75% for all community groups

Colin Matheson clubhouse

- Rate payers - receive 75% discount

Matt Dann

- Staffing costs to reflect actual cost of hiring

Environmental health

- Costs for 1 week, month, year should reflect pro rata not or part thereof.

Noise approvals

Why does time frame matter? Remove all costs other than \$500, as cost doesn't change due to time frame lodgement.

Certificate of Construction Compliance Buildings over 2000m

Does this reflect actual cost of service?

Why does it cost more for a private certifier?

Town Planning

- Minor amendments – why the fee if they have already paid for the initial fee?
- Also extension in time, reduce to nil or reflect the actual cost of the change.

Materials

- Plants – why are we selling any plants? We have local businesses that do that?

Leases

All sporting group leases reduce to a maximum of \$200. What costs are involved with these leases?

12.3 Community and Development Services

12.3.1 Town Representation at 2016 North West Festival

File No: 26/01/0028
Applicant/ Proponent: N/A
Subject Land/ Locality: N/A
Date: 11/07/2016
Author: Mark Davis, Coordinator Community and Youth Development
Authorising Officer: Adam Majid, Acting Director Community and Development Services
Disclosure of Interest from Author: Nil
Authority/Discretion: ☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:

1. Correspondence from Department of Local Government and Communities
2. Ticket Benefits and Entitlements
3. Ticketing Options

RECOMMENDATION

That with respect to Town of Port Hedland representation at the 2016 North West Festival, Council:

1. Request the Acting Chief Executive Officer to purchase the following tickets for the North West Festival Music Weekender:
 - a. A maximum of nine Sponsor tickets for attendance by Elected Members at a cost of \$3,600 (inc GST)
 - b. A maximum of nine Sponsor tickets for attendance by Officers at a cost of \$3,600 (inc GST)
2. Note that the final quantity of Elected Member and Officer tickets will be determined by the number of RSVPs received, but will not exceed the maximum number stipulated.
3. Include in the 2016/17 Budget the expenditure of \$7,200 (inc GST) for the North West Festival 2016 tickets.

Note: Following a request from one or more Elected Members at the Public Agenda Briefing on Wednesday 27 July 2016 the below two alternative recommendations have been provided. Town officers support the original officer's recommendation contained within the report and not the alternative recommendations as the project delivery needs to be monitored by the responsible Town officers. The Town should be represented at the festival to liaise with key sponsors and stakeholders to ensure further funding in future years and other projects and key initiatives.

CM201617/026 COUNCIL DECISION**MOVED: CR TAVO****SECONDED: CR HOOPER**

That Council not purchase any tickets to the North West Festival, with staff or Elected Members attending, being responsible for purchasing their own tickets.

CARRIED 8/0

Reason: Council believe that given the change with the sponsorship arrangements with the 2016 North West Festival Elected Members and Town officers should purchase their own tickets.

EXECUTIVE SUMMARY

The 2016 North West Festival Music Weekender will be held on Friday 19 August, Saturday 20 August and Sunday 21 August. This report requests Council's consideration of ticket allocation and attendance at this event.

Representation by Elected Members and Officers at the North West Festival (NWF) signifies the Town's level of commitment as the founder and owner of the event; allows the opportunity to liaise with sponsors and key community partners; and allows officers to monitor the event from a project management perspective.

To comply with the Local Government Act 1995, the Department of Local Government and Communities have recommended that the Town purchase tickets should Elected Members and/or Officers attend the event as representatives.

BACKGROUND

The Town of Port Hedland is the founder of the NWF. The Town contracts Sunset Events to manage the event on its behalf. Within the contract with Sunset Events, and in regards to the contribution of \$150,000 towards the 2016 NWF, there is no provision in regards to a ticket allocation to the Town of Port Hedland.

In previous years, Elected Members and Town officers have been provided with Sponsor tickets in order to liaise and host committed and prospective sponsors; State Ministers; local Members of Parliament; and other key community stakeholders. The event has been considered as a key networking opportunity. A roster, and key talking points, have been implemented in previous years to ensure representation in the Port City Lounge during peak periods to greet, welcome and converse with the aforementioned parties.

Town officers have also been provided with tickets in line with their responsibility to project manage the festival and Sunset Events. Environmental Health officers have been provided access passes to undertake compliance inspections of food premises and public buildings and structures.

CONSULTATION

Advice has been sought from the following parties regarding ticketing and Town representation at the 2016 NWF:

Internal

- Manager Corporate Information
- Acting Director Community and Development
- Acting Chief Executive Officer

External

- Department of Local Government and Communities
- Sunset Events

LEGISLATIVE IMPLICATIONS

Regulation 12 of the *Local Government (Rules of Conduct) Regulations 2007* and regulation 34B of the *Local Government (Administration) Regulations 1996* outlines notifiable and prohibited gifts and the requirements for disclosing the gift.

The DLGC have recommended that the Town purchase North West Festival tickets as they would then not be considered gifts.

If the Town received complimentary sponsor tickets, which are valued at over \$300, they would be considered prohibited gifts in accordance with the regulations as they are from a company who conduct business with the Town of Port Hedland.

POLICY IMPLICATIONS

As per Town Policy 4 – 008, Elected Members and Officers' partners can accompany at their own expense as per direction of the Acting Chief Executive Officer. These tickets will not be provided at the expense of the Town.

Town representatives at the NWF are expected to abide by the Town's Code of Conduct and Organizational Values at all times.

FINANCIAL IMPLICATIONS

The purchase of tickets for the 2016 NWF would be captured within the 2016/17 Town budget.

Should the officer's recommendation be adopted, a maximum of \$3,600 would be allocated to GL 401220 Training and Development – Elected Members. A further \$3,600 for officers' attendance would be budgeted for and allocated to GL 811258.

Should Council adopt an alternative ticketing approach, costings are contained within attachment 2.

STRATEGIC IMPLICATIONS

The Strategic Community Plan 2014 – 2024 supports the North West Festival being held, as outlined below:

Outcome 1.1 – A unified community across our town.

Provide safe and accessible community facilities, services, events and open spaces that connect people and neighbours.

Outcome 1.2 – A vibrant community rich in diverse cultures.

Deliver and support programs, events, facilities and services which attract and retain residents to increase our permanent population.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

The NWF is the Town's highest profile community event. Representation at the event by the Town alongside would allow for the opportunity to strengthen partnerships with key corporate sponsors and partners. It would also allow the Town to further acknowledge the contributions of other sponsors and supporters of the event – thus providing a positive base in which to continue building partnerships to benefit the community.

No formal attendance by the Town at the event would negate this opportunity and have the potential to detrimentally affect key stakeholder relationships. In this instance, the Town may also be at risk of reputational damage by being perceived to demonstrate a lack of commitment to its key community event. The Town is perceived as non-committal to the 2016, and sponsors re-commitment is left in.

Social

Attendance at the NWF provides the Town an opportunity to demonstrate strong civic leadership and the organisations' strategic focus on strengthening community. The NWF showcases the Town's commitment to building a unified and vibrant community with cultural and entertainment activities such as the NWF festival, and representation by the Town would further underline this strategic focus to key stakeholders, including the broader community. Town officers in attendance will also be conducting surveying of community attendees on social and economic return on the Town's investment.

No formal attendance by the Town at the event may contradict the organisations' strategic commitment to local leadership and contribution to building a unified and vibrant community.

Risk

Risk	Project delivery is not monitored at the event by the responsible Town officers.	The Town is perceived as having questionable commitment to the 2016, and sponsors re-commitment is left in doubt.	The Town's partnerships with its valued sponsors would not be recognized and celebrated appropriately at the event.
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Risk Likelihood (based on history and with existing controls)	Almost Certain (5)	Likely (4)	Likely (4)
Risk Impact / Consequence	Minor (2)	Major (4)	Major (4)
Risk Rating (Prior to Treatment or Control)	High (10-16)	High (10-16)	High (10-16)
Principal Risk Theme	Failure to effectively manage, coordinate and review critical projects	Financial Impact - 4 Major - \$300,001 - \$3M	Reputation - 4 Major - Substantiated, public embarrassment, widespread high impact on key stakeholder trust, high media profile, third party actions
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation	Accept Officer Recommendation	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 10 and 16 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

The risks would be placed on the Risk Register should the officer's recommendation not be accepted.

CONCLUSION

The officers' recommendation is for Elected Members and nine Officers to receive Sponsors tickets. The access provided by these tickets is equivalent to that of other significant corporate sponsors, which will reinforce the Town's commitment to the event and allow for ongoing liaison throughout the event. The Town's partnerships with its valued sponsors will also be recognized and celebrated appropriately at the event.

As per attachment 2, allocating VIP or general admission tickets will provide limited or minimal access to sponsors and networking opportunities.

Given the Town's financial contribution and investment on the project, it is highly recommended that staff project managing and monitoring the project are in attendance. This is considered standard project management process for events regardless of size. Town officers have been in attendance in the past, allowing them to engage with Sunset Events to assist, trouble shoot or provide a prompt response to emerging issues at the event.

Attendance by Town officers will also allow them to monitor and observe the event delivery by Sunset Events from a project management perspective. Feedback gathered from previous events has been relayed to Sunset Event during the event, and after the event through a debriefing process. Without a presence at the festival, it may be difficult for the Town to objectively analyse aspects of Sunset Event's performance.

Town officers in attendance will also be conducting surveying of attendees on the Friday, Saturday and Sunday events in order to collect data on the social and economic impact of the NWF.

Should Council approve attendance at the event by Town officers and Elected Members, a roster will be implemented to formalize sponsor liaison and project management responsibilities over the course of the event.

Access required by the Town's Environmental Health Officers for compliance and inspection purposes will be negotiated directly with Sunset Events, and will not require the distribution of tickets. This is a standard practice across community events.

ATTACHMENT 1 TO ITEM 12.3.1

From: stuart.fraser@dlgc.wa.gov.au [<mailto:stuart.fraser@dlgc.wa.gov.au>]
Sent: Tuesday, 5 July 2016 11:18 AM
To: Grace Waugh <govc@porthedland.wa.gov.au>
Subject: RE: Gifts

Hello Grace,

(reference to other confidential matter removed by AD)

In regard to your query on gifts, the following is provided:

I refer to Case Study 7 "Free Tickets" in the Department's Special Governance Bulletin No.11 March 2016. Although this case study is different to your query, the fundamental consideration is that the tickets are considered a gift which needs to be disclosed in terms of section 5.82 of the LG Act. In your case the value of the tickets are in excess of \$300 and that Sunset Events may be considered to be involved in an activity that requires a local government discretion as defined in regulation 12 of the Local Government (Rules of Conduct) Regulations 2007. If that is the case then, the Department is of the view that the gift of the tickets is a "prohibited" gift under the Rules of Conduct regulations and should not be accepted.

Your suggested option of the Town paying for the tickets and nominating or appointing persons to attend on behalf of the Town as representing the Town at the event is considered to remove the benefit of the tickets from the gifting provisions.

I also wish to raise another matter in regard to the festival. You have indicated that the North West Festival is held by the Town of Port Hedland and the management of the event is run by Sunset Events. It is suggested that the Town may need to be mindful of the expenditure it that is incurred in having Sunset Events manage the Festival for the Town. If that is the case, then if there is a procurement process involved besides the sponsorship, it may be subject to a purchasing process that perhaps should involve a tender or quotations should the Town be engaging Sunset Events to manage the event on behalf of the Town.

Regards
Stuart Fraser
Principal Advisory Officer
Local Government Regulation and Support
Department of Local Government and Communities
Tel: +61 8 6552 1586
Fax: +61 8 6552 1555
Email: stuart.fraser@dlgc.wa.gov.au
Web: www.dlgc.wa.gov.au

From: Grace Waugh [<mailto:govc@porthedland.wa.gov.au>]
Sent: Tuesday, 5 July 2016 10:17 AM
To: Stuart Fraser <stuart.fraser@dlgc.wa.gov.au>
Subject: Gifts

Hi Stuart,

Following on from our phone conversation can you please provide confirmation on the below in relation to gifts.

The Town of Port Hedland hold the North West Festival each year in August which we outsource the running of to Sunset Events. The Town is also a sponsor of the festival.

As part of the sponsorship we receive free sponsor tickets to the event from Sunset Events which are estimated to cost in excess of \$300. We generally received approximately 50 tickets for staff and Elected Members.

As the tickets are provided to the Town from Sunset Events I am in the opinion that they are considered prohibited gift and therefore cannot be accepted.

I have recommended that the Town purchase tickets and then provide them to staff and Elected Members as Town of Port Hedland representatives.

Can you please provide your advice on the above?

Thank you



Grace Waugh

Coordinator Governance, Corporate Information

PO Box 41 Port Hedland WA 6721

08 9158 9317

gwaugh@porthedland.wa.gov.au

www.porthedland.wa.gov.au

www.facebook.com/townofporthedland

ATTACHMENT 2 ITEM 12.3.1

Attachment 2

2016 North West Festival - Ticket Benefits

Sponsor Ticket Benefits (not available for public purchase)

- Exclusive access to side stage viewing area, private dining area with artists and complimentary dinner service on Saturday and Sunday;
- Exclusive access to a VIP Area (Port City Lounge) which includes a shaded bar area, seating and excellent stage views on Saturday and Sunday;
- Separate VIP toilets

VIP Ticket Benefits (source: North West Festival website)

- Exclusive access to a VIP Area (Port City Lounge) which includes a shaded bar area, seating and excellent stage views;
- 1 x complimentary drink ticket per day on Saturday and Sunday
- Separate VIP toilets

General Admission Ticket Benefit

- Admission to festival grounds
- Does not include complimentary food, drink or VIP area access

ATTACHMENT 3 TO 12.3.1

Attachment 3

Elected Members Ticketing Options

	Sponsor (approximate cost supplied by Sunset)	VIP and Sundowner	General Admission and Sundowner
OPTION	1 - Recommended	2	3
Mayor Kelly Howlett	400	280	195
Councillor Camilo Blanco	400	280	195
Councillor Louise Newbery	400	280	195
Councillor Julie Arif	400	280	195
Councillor Jan Gillingham	400	280	195
Councillor David Hooper	400	280	195
Councillor Lincoln Tavo	400	280	195
Councillor Richard Whitwell	400	280	195
Councillor Troy Melville	400	280	195
TOTAL (100% RSVP Rate)	3600	2520	1755

Town Officers Ticketing Options

		Sponsor (approximate cost supplied by Sunset)	VIP and Sundowner	General Admission and Sundowner
OPTION		A - Recommended	B	C
Total (9 officers - 100% RSVP)		3600	2520	1755

12.3.2 Request for Tender (RFT) Oval Electronic Scoreboards

File No: 05/09/0047
Applicant/ Proponent: NA
Subject Land/ Locality: Colin Matheson Oval and Kevin Scott Oval
Date: 05/07/2016
Author: Kellie Williams, Community Infrastructure Planning Officer
Authorising Officer: Adam Majid, Director Community and Development Services
Disclosure of Interest from Author: Nil
Authority/Discretion: ☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

Attachments:

1. Price Evaluation (Under Confidential Cover)
2. Financial Implications (Under Confidential Cover)

RECOMMENDATION

That with respect to Request for Tender (RFT) 2016/13 Oval Electronic Scoreboards, Council:

1. Award Request for Tender 2016-13 Oval Electronic Scoreboards to Danthonia Designs for the lump sum price of \$230,232.20 (excluding GST) to deliver the scope of works as per the Request for Tender, inclusive of the Tender Response and General Conditions of Contract.
2. Include in the 2016/17 Budget an allocation of \$268,551.00 (excluding GST) for the project, consisting of:
 - a. \$156,072.17 remaining from the BHPB Iron Ore funding (held in the restricted cash backed asset reserve, Unfinished and Committed Works);
 - b. \$89,455.83 Town of Port Hedland capital expenditure funding; and
 - c. \$23,023.00 additional Town of Port Hedland capital expenditure funding, as a contingency.

CM201617/027 COUNCIL DECISION

MOVED: CR BLANCO

SECONDED: CR TAVO

That, with respect to item 12.3.2 'Request for Tender (RFT) Oval Electronic Scoreboards'; Council lay the item on the table, in accordance with section 13.5 of the Town of Port Hedland Standing Orders Local Law 2014, for consideration at the 31 August 2016 Ordinary Council Meeting.

CARRIED 8/0

EXECUTIVE SUMMARY

The purpose of this report is to summarise the assessment of submissions received for the Request for Tender (RFT) Tender 2016/13 Oval Electronic Scoreboards and to award the contract.

BACKGROUND

In April 2015, BHPB Iron Ore provided the Town of Port Hedland with funds towards the installation of two electronic scoreboards to be located at the Colin Matheson and Kevin Scott Ovals. The installation of electronic scoreboards at the Town's premier sporting ovals was originally discussed with BHPB Iron Ore in 2012.

This was initially meant to be part of the recognition strategy for BHPB Iron Ore and their contribution to the construction of the Wanangkura Stadium. BHPB will be recognized when the scoreboard is working as the LED screen allows for pre-configured buttons to display promotional functions such as game triggers and advertising.

Significant research has been undertaken in order to ascertain the technical requirements for scoreboards located in Port Hedland. The product identified needs to be capable of withstanding harsh climatic conditions, it also requires a level of security as it will be installed in public open space.

The original RFT was advertised on the 22 August 2015 and closed on the 17 September 2015. Six tenders were received. An assessment panel of three independent persons undertook an initial assessment. This process was not completed as the assessment was compromised.

The Town also received advice from an external third party alluding to a level of interference in the tender process. The nature and severity of the interference deemed it necessary that the Town audit the process. Advice received recommended the current process be terminated and for the Town to conduct a new tender process.

The Town commenced a review of the original specification in February 2016. The specification was re written and including an independent review by 3E Consulting Electrical Engineers of the final document.

Request for Tender

Request for Tender 2016/13 Oval Electronic Scoreboards, was uploaded to the Tenderlink portal on Saturday, 23 April 2016 and was made available for a period of two (2) weeks, as per tender minimum requirements. The tender submission closing date was 2.00pm WST, Monday, 9 May 2016.

Tender Assessment

At the conclusion of the tender period for RFT 2016/13 six submissions were received from the following respondents:

Company name:	Registered Address:
AD Engineering International Pty Ltd	6 Hod Way Malaga Perth WA 6090
Barmelco Electrical Pty Ltd -	8/37 Pinnacles Street Wedgefield WA 6721
BizMac DeSIGNS	118 Willsmere Road Kew Vic 3101
Danthonia Designs	4188 Gwydir, Elsmore NSW 2360
Hender Lee Electrical	Unit 1/32 Bushland Ridge, Bibra Lake WA 6163
Stech Holdings Pty Ltd	12 Morduant Circuit Canning Vale WA 6155

The six submissions were deemed compliant and assessed against the tender evaluation criteria of: price (inclusive of application of Regional Preference Policy), relevant experience, resources/skills and demonstrated understanding, by the tender evaluation panel.

Evaluation Criteria	Weighting %
Response to Technical Specification	40%
Price (inclusive of application of Regional Preference Policy)	30%
Relevant Experience	10%
Resources/Key Personnel	10%
Demonstrated Understanding	10%

Confidential Attachment 1 shows the price schedules submitted by six tenderers.

The following table provides a summary of the assessment results of submissions received for RFT2016/13:

Tenderer / Evaluation Criteria	Technical Response (40%)	Price (30%)	Relevant Experience (10%)	Resources/ Skills (10%)	Demonstrated Understanding (10%)	Total Score (100%)
Danthonia Designs	30	30	10	8	10	88
Hender Lee Electrical	40	22	10	6	10	88
Barmelco Electrical Pty Ltd	35	20	10	10	10	85
AD Engineering	15					
BizMac DeSIGNS	15					
Stech Holdings Pty Ltd	0					

Technical Assessment

Danthonia Designs – Aluminium frame which will be non-rusting and has a nonconductive safety rating. Good Occupational Health and Safety design with clear access to control panel. Good brightness of LED lights, an average but satisfactory viewing angle.

HenderLee Electrical – Provided the most preferred technical solution. Product is made in Australia and with three stage cooling, it would cope with the Port Hedland environment well. Good viewing angle.

Barmelco Electrical Pty Ltd – Local supplier who demonstrated a good understanding of the environment with a 56 vent fan system. LED panels would provide excellent brightness and the structure also has good viewing angle.

AD Engineering – Contractor did not have a software solution as part of their proposal. This would have to be developed as part of the project, increasing the risk and potential variations. Not preferred.

BizMac DeSIGNS – Inferior technological solution. Not competitive.

Stech Holdings Pty Ltd – Power requirements of solution did not comply with the provision electrical provision on site. Solution is non-compliant.

Following the technical assessment, AD Engineering, BizMac and Stech were not evaluated further.

Price Assessment

All submissions were assessed after applying the Regional Price Preference (RPP) Policy applicable to construction projects. This provides a price reduction of 5% of the applicable value up to a maximum of \$50,000.00, based on evidence provided in the tender submission.

Danthonia Designs provided the best priced solution. The Barmelco and Hender Lee proposed solutions were significantly more expensive than Danthonia Designs and well outside the project budget (refer to Attachment 1).

Following the initial price assessment further clarification and detail was sort from the three preferred tenderers. All tenderers provided a revised lower costing and bought the Danthonia budget closest to the budget.

A detailed price evaluation summary is included in the confidential attachment (refer to Attachment 2).

Relevant Experience Assessment

Danthonia Designs, Hender Lee Electrical and Barmelco Electrical Pty Ltd demonstrated equal experience in the field.

Resources Assessment

All companies had adequate resources and skills to fulfil their proposals with Barmelco Electrical Pty Ltd and leading this criteria as they are local.

Demonstrated Understanding Assessment

Danthonia Designs, Hender Lee Electrical and Barmelco Electrical Pty Ltd all demonstrated a good and thorough understanding of the project requirements.

Assessment Conclusion

Whilst Hender Lee Electrical presented the most preferred technical solution, Danthonia Designs and Barmelco Pty Ltd solutions were also satisfactory. Danthonia Designs presented the best overall solution, coming only just outside the project budget.

CONSULTATION

External

- 3E Consulting Engineers Pty Ltd

Internal

- Manager Technology
- Risk Analyst
- Acting Recreation Coordinator

LEGISLATIVE IMPLICATIONS

The *Local Government Act (1995)* section 3.57 and the *Local Government (Functions and General) Regulations 1996* part 4, division 2 provide statutory requirements for the release, assessment and award of tenders.

RFT 2016/13 was conducted in accordance with these regulations, the Town's Procurement Policy 2/007, Tender Policy 2/011 and Regional Price Preference Policy 2/016.

Sections of this report pertaining to price submissions from tenderers have been deemed confidential in accordance with the *Local Government Act (1995)* section 5.23 part 2(e)(iii).

POLICY IMPLICATIONS

The *Regional Price Preference Policy 2/016* applies to all tenders to maximize the use of competitive local business in the procurement of goods and services. The policy aims to support local business and industry to encourage employment of local people, thereby generating economic growth within the Town.

FINANCIAL IMPLICATIONS

Please refer to Confidential Attachment 2 for a full overview of the financial implications associated with this project.

STRATEGIC IMPLICATIONS

This tender aligns with the Town's 2014-2024 Strategic Community Plan as the electronic scoreboards project seeks to provide and support programs, events, facilities and services that attract and connect people and residents.

Sustainable services and infrastructure Develop and maintain our infrastructure to ensure the long-term sustainability of our built and natural environment

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the Officers recommendation.

Economic

Components of the project will be carried out by local contractors providing work and economic benefit to the community. Contractors not based within the Town will also provide a positive financial benefit to the community through the purchase of local accommodation and dining.

Social

The Scoreboards installation will benefit all sporting clubs and spectators at the Colin Matheson and Kevin Scott Ovals. The electronic scoring system will improve visibility of sporting's scores as well as the physical management of scoring.

Risk

Risk	That the tender is not awarded and the external project funding is withdrawn	That the tender is not awarded and community expectation is not fulfilled	That the existing Colin Matheson Scoreboard is not removed
Risk Likelihood (based on history and with existing controls)	Possible (3)	Possible (3)	Possible (3)
Risk Impact / Consequence	Moderate (3)	Moderate (3)	Moderate (3)
Risk Rating (Prior to Treatment or Control)	Medium (5-9)	Medium (5-9)	Medium (5-9)
Principal Risk Theme	Financial Impact - 3 Moderate - \$30,001 - \$300,000	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile	Health – 3 Moderate – Medical type injuries or lost time injury < 5 days
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation	Accept Officer Recommendation	Accept Officer Recommendation

Risk Rating:

With a risk rating of 9 for each risk, the items will be monitored by the administration.

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

CONCLUSION

This report recommends that Request for Tender (RFT) Tender 2016/13 Oval Electronic Scoreboards is awarded to Danthonia Designs with a contingency of 10%.

If this project does not proceed the existing scoreboard at Colin Matheson presents a risk to the community. The existing structure is at the end of its useful life and has a high level of surface rust, compromising the structural integrity. In addition the usability and overall aesthetics are poor. If the electronic scoreboard project does not proceed a formal structural engineers report will need to be sought on this structure. Costs for replacement of a manual scoreboards are unknown, these are estimated at \$50,000.00 - \$70,000.00. A manual scoreboard replacement is not the preference of sporting groups using the reserve.

Item 13 Reports of Committees

Note: The Minutes of this Committee meeting are enclosed under separate cover.

13.1 Audit, Risk and Governance Committee Minutes – 5 July 2016**CM201617/028 RECOMMENDATION/ COUNCIL DECISION****MOVED: CR BLANCO****SECONDED: CR HOOPER**

That Council receive the Minutes of the Ordinary Meeting of the Audit, Risk and Governance Committee held on 5 July 2016 at 5:30pm inclusive of the following decision:

- 1. 12.1.1 'Interim Audit and Financial Management Review'.**

CARRIED 8/0

Item 14 Motions of Which Previous Notice Has Been Given

Nil

Item 15 New Business of an Urgent Nature

15.1 Port Hedland International Airport Electrical Upgrade Payment

Attachments:

1. Extract from Moore Stephens Report (Confidential Under Separate Cover)
 2. Track Changes to Delegation 1.9 'Contract Variations'
-

CM201617/029 COUNCIL DECISION**MOVED: CR ARIF****SECONDED: CR HOOPER**

That Council consider item 15.1 'Port Hedland International Airport Electrical Upgrade Payment', as part of the Ordinary Council Meeting of 27 July 2016.

CARRIED 5/4 ON THE MAYORAL CASTING VOTE

For: Mayor Howlett, Cr Hooper, Cr Arif, Cr Whitwell

Against: Cr Blanco, Cr Gillingham, Cr Newbery, Cr Tavo

CM201617/030 RECOMMENDATION 1/ COUNCIL DECISION**MOVED: CR HOOPER****SECONDED: CR ARIF**

That with respect to the Port Hedland International Airport Electrical Upgrade, Council authorise the payment of \$279,706 (inc GST) to Total Electrical Communication Services for the completion of Stage 2 and Stage 3 of the electrical upgrade at Port Hedland International Airport.

CARRIED 8/0

CM201617/031 RECOMMENDATION 2/ COUNCIL DECISION**MOVED: CR HOOPER****SECONDED: CR WHITWELL**

That with respect to the Delegation Register, Council amend delegation 1.9 'Contract Variations' to read as follows:

1.9 Contract Variations

LEGISLATIVE POWER

Local Government (Functions and General) Regulations 20(1)

DELEGATE

Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to approve minor variations to contracts entered into by Council, subject to the funds required to meet the cost of the variations being contained within the amount set aside in the budget adopted by the Council. The definition of minor being not more than 10%, or \$15,000, whichever is the greater, of the original agreed project value let, up to a maximum of the individual officer's authorisation of expenditure.

Conditions:

- 1. For the purposes of this delegation a contract is defined as a legally binding agreement between the Town and another party for the supply of goods and/or services.*
- 2. The Chief Executive Officer is to ensure that documented procedures are established and agreed in writing, prior to entering into a contract with regard to variations.*
- 3. The Chief Executive Officer is to ensure that proposed variations to contracts are agreed in writing, prior to commencing the additional works and scope.*

CARRIED BY ABSOLUTE MAJORITY 8/0

EXECUTIVE SUMMARY

The Town had awarded a number of tenders to Total Electrical Communication (TEC) Services for electrical works, including stage 2 and 3 upgrades, at Port Hedland International Airport (PHIA). The project has been completed and the Town is now required to make the final payments to TEC Services. It should be noted that the works were the responsibility of the Town and not the new lessee.

Town officers have identified that the total PHIA electrical upgrade project amount has exceeded the contracted amount by more than 10 percent.

BACKGROUND

Total Electrical Communication (TEC) Services were awarded three tenders in relation to electrical works at the Port Hedland International Airport, including for the staged upgrade works. These tenders were awarded in May 2013, February 2014 and January 2015. During the periods of these tenders it was identified that the scope of works for the electrical upgrade were not adequate. This resulted in further work being awarded to TEC Services in May 2014 under an existing tender. The payments for the works under each of these tenders have overlapped and therefore the contract variation in excess of the 10 percent delegation was overlooked.

The Town of Port Hedland engaged Moore Stephens in April 2016 to audit procurement events which included the Airport Electrical Upgrade project. This report has previously been provided to the Audit, Risk and Governance Committee on 10 May 2016 as confidential attachment 3 to item 11.2.1. The report from Moore Stephens outlines procurement issues with this project dating back to 2013 and 2014. The report is provided as confidential attachment 1.

The electrical upgrade project was split into stages 2 and 3. Part of stage 2 was completed under one contract however was then halted due to the inadequate scope identified by the contractor. In May 2014 a new scope was developed for stage 3 and the completion of stage 2 which was then awarded to TEC Services under an electrical contracting services tender (which had already been awarded in February 2014).

It should be noted that as part of the transition to the new lessee, the electrical upgrade works were the responsibility of the Town and not PHIA Group. The works have now been completed and no additional invoices will be due.

The Town has identified that stage 3 of the project has exceeded the contracted amount by 22 percent which is outside of the A/CEO's contract variation delegation which is 10 percent.

Council is requested to authorise the final payment of \$276,406 (inc GST) to TEC Services to finalise this project.

Business improvement

It is noted that the contract variation that exceeded the 10 percent contract variation delegation should have been presented to Council for consideration prior to acceptance of the variation on 11 July 2016.

Measures have been changed so that works are now adequately scoped prior to release and award of tenders and large contracts. Processes have also recently been put in place to ensure that contract variations in future do not exceed ten percent without prior approval from Council.

The Town's officers are also recommending amendments to the Delegation Register to provide further clarity on contract variations.

CONSULTATION

The Town's Creditors and Governance teams reconciled the invoices and the committed expenses which highlighted the variation.

Moore Stephens were engaged in April 2016 to audit procurement events including the Airport Electrical Upgrade project.

LEGISLATIVE IMPLICATIONS

The current Delegation Register includes delegation 1.9 'Contract Variations' which allows the Chief Executive Officer to authorise minor contract variations of 10 percent of the total project value. As this variation is in excess of the 10 percent variation, it is therefore referred to Council for a decision.

The Town's officers also believe that there is merit in amending the recently reviewed delegation 1.9 'Contract Variations' with the following recommended additions:

"The Chief Executive Officer is delegated authority to approve minor variations to contracts entered into by Council, subject to the funds required to meet the cost of the variations being contained within the amount set aside in the budget adopted by the Council. The definition of minor being not more than 10%, or \$15,000, whichever is the greater, of the original agreed project value let, up to a maximum of the individual officer's authorisation of expenditure.

Conditions:

- 1. For the purposes of this delegation a contract is defined as a legally binding agreement between the Town and another party for the supply of goods and/or services.*
- 2. The Chief Executive Officer is to ensure that documented procedures are established and agreed in writing, prior to entering into a contract with regard to variations.*
- 3. The Chief Executive Officer is to ensure that proposed variations to contracts are agreed in writing, prior to commencing the additional works and scope."*

POLICY IMPLICATIONS

There are no policies that apply to the authorisation for the Town to pay the final invoices. The Town is recommending changes to delegation 1.9 'Contract Variations' to

FINANCIAL IMPLICATIONS

Should the outstanding invoices be paid the costs will be incurred against the 2015/16 Budget as the works were completed prior to the end of the financial year.

STRATEGIC IMPLICATIONS

Section 4.1 'Strategic and best practice local government administration' of the Strategic Community Plan applies as the Town's internal controls identified that the contract variation exceeded the current delegation.

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

Should the Town not pay the outstanding invoices then the relationship between the Town and the contractor will be damaged. The Town would also be liable for the outstanding amount under contract law.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

Risk	Should the Town of Port Hedland not pay TEC Services the outstanding amount then the Town would be liable under contract law.	That the contractor cease future works with the Town of Port Hedland should the matter not be resolved by Council.
Risk Likelihood (based on history and with existing controls)	Almost Certain (5)	Likely (4)
Risk Impact / Consequence	Moderate (3)	Minor (2)
Risk Rating (Prior to Treatment or Control)	High (10-16)	Medium (5-9)
Principal Risk Theme	Financial Impact - 3 Moderate - \$30,001 - \$300,000	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood	1	1	2	3	4	5
	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 15 and 8 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

The above scenario's has been given a rating of 8 and 15 therefore one will be placed on the Town's Risk Register should Council not endorse the officer's recommendation.

CONCLUSION

It is recommended that Council endorse the recommendation to pay the outstanding invoices of \$279,706 (inc GST).

ATTACHMENT 2 TO ITEM 15.1

DELEGATION REGISTER

1.9 Contract Variations

LEGISLATIVE POWER Functions and General Regulation 20(1)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to approve minor variations to contracts entered into by Council, subject to the funds required to meet the cost of the variations being contained within the amount set aside in the budget adopted by the Council. The definition of minor being less not more than 10% or \$15,000, whichever is the greater, of the original agreed total project value let, up to a maximum of the individual officer's authorisation of expenditure.

Conditions:

1. For the purposes of this delegation a contract is defined as a legally binding agreement between the Town and another party for the supply of goods and/or services.
2. The Chief Executive Officer is to ensure that documented procedures are established and agreed in writing, prior to entering into a contract with regard to variations.
3. The Chief Executive Officer is to ensure that proposed variations to contracts are agreed in writing, prior to commencing the additional works and scope.

Item 16 Matters for Which Meeting May Be Closed (Confidential Matters)

Nil

Item 17 Closure

17.1 Date of Next Meeting

The next Ordinary Council Meeting will be held on Wednesday 31 August 2016, commencing at 5:30pm in Council Chambers. The next Public Agenda Briefing will be held on Thursday 25 August 2016, commencing at 5:30pm in Council Chambers.

The Mayor advised that she has tendered her resignation as Mayor, effective Friday 26 August 2016, after being with the Town of Port Hedland for 13 years and as Mayor since 2009. The Mayor thanked Elected Members, Town officers and the community, and looks forward to her future work in the community, outside of local government.

17.2 Closure

There being no further business, the Mayor declared the meeting closed at 8:26pm.